

## ARTICLE I. IN GENERAL

### Sec. 732-100. Establishment of official zoning map; establishment of commercial zoning districts.

(a) *Establishment of the official zoning map.*

(1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.

(2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.

(3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.

(4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) *Establishment of primary commercial zoning districts.* The following primary commercial zoning districts for Marion County, Indiana, are hereby established, and land within said county zoned to said district classifications shall be designated on the official zoning map by the following zoning district symbols, respectively:

TABLE INSET:

District	Symbol
Office-Buffer District	C-1
High Intensity Office-Apartment District	C-2
Neighborhood Commercial District	C-3
Corridor Commercial District	C-3C
Community-Regional Commercial District	C-4
General Commercial District	C-5
Thoroughfare Service District	C-6
High Intensity Commercial District	C-7
Commercial-Industrial District	C-ID

Special Commercial District	C-S
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(G.O. 31, 2001, § 2)

## ARTICLE II. COMMERCIAL DISTRICT REGULATIONS

### Sec. 732-200. General commercial district regulations.

The following regulations and performance standards shall apply to all land within the commercial zoning districts:

(a) *Applicability of regulations.* After the effective date of this chapter:

(1) With the exception of legally established nonconforming uses, no land, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this chapter.

(2) A lot may be divided into two (2) or more lots, provided that all resulting lots and all buildings thereon shall comply with all the applicable provisions of this chapter. If such a lot, however, is occupied by a nonconforming building, such lot may be subdivided provided such subdivision does not create a new noncompliance or increase the degree of noncompliance of such building.

(3) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this chapter.

a. *Restoration of legally established nonconforming uses, structures, buildings.* Legally established nonconforming uses and structures or buildings not located in any flood control district may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other naturally occurring disaster provided the damage or destruction does not exceed two-thirds ( $\frac{2}{3}$ ) of the gross floor area of the building or structure affected.

b. *Established setback exception.* In any block in which an existing front yard depth and setback is established (by legally established buildings within a commercial or industrial district) for more than twenty-five (25) percent of the linear frontage of the block (or a distance of two hundred (200) linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure, except surface parking lots, shall be the average of such established yards if such dimension is less than the minimum required front setback established by this chapter. Provided, however, that in no case shall a building or structure:

1. Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana, unless subject to the provisions of section 732-214(a);

2. Encroach upon any existing right-of-way if no proposed right-of-way exists or if the existing right-of-way is greater than the proposed right-of-way; or

3. Encroach into a clear sight triangular area, as required in section 732-214(c).

c. *Expansion along an existing legally established nonconforming front setback line.* The minimum required front setback in any commercial district for any existing building, having a legally established front setback line which is less than the required front setback of the district, shall be modified to permit expansion of such building along the structure's legally established front setback, provided that:

1. Only a one-time expansion along the legally established nonconforming setback line shall be permitted; and

2. The linear front footage of the expansion does not exceed fifty (50) percent of the linear front footage of the existing building, and all other requirements of this chapter are maintained for the expansion.

Provided, however, that in no case shall a building or structure:

Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana, unless subject to the provisions of section 732-214(a);

Encroach upon any existing right-of-way if no proposed right-of-way exists or if the existing right-of-way is greater than the proposed right-of-way; or

Encroach into a clear sight triangular area, as required in section 732-214(c).

d. *Expansion along an existing legally established nonconforming side setback line.* The minimum required side setback in any commercial district for any existing building, having a legally established side setback line which is less than the required side setback of the district, shall be modified to permit expansion of such building along its legally established nonconforming side setback line between the established front setback line and the established rear setback line provided that:

1. Only a one-time expansion along the legally established setback line shall be permitted; and

2. The linear footage of such expansion does not exceed fifty (50) percent of the linear footage of the building along that side setback line, and all other requirements of this chapter are maintained for the expansion; and

3. This exception shall not apply to required side transitional yards.

e. *Discontinuation of nonconformity.* The lawful nonconforming use or occupancy of any lot, in a commercial district, existing at the time of the effective date of this chapter, may be continued as a nonconforming use, but if such nonconforming use is discontinued for one (1) year, any future use or occupancy of such land shall be in conformity with the use provisions of this chapter.

(4) *Integrated center.* Land uses permitted in a commercial district established by this chapter may be grouped together to create an integrated center in that district. Integrated centers are defined in section 732-217.

(5) *Building or structural height exception.* The following exceptions to the maximum vertical height of buildings and structures shall be permitted:

- a. Parapet walls not exceeding two (2) feet in height from the roof line.
- b. Roof structures for the housing of elevators, stairways, air conditioning apparatus, ventilating fans, skylights, or similar equipment to operate and maintain the building or structure.
- c. Chimneys, flag poles, radio and television antennas, satellite dishes, and other similar structures, not exceeding twenty-five (25) feet in height from the roof line.

(6) *Lot frontage exception.* Any lot recorded or any platted lot recorded prior to August 2, 1993 having less than the minimum frontage required by the applicable commercial district regulations of this chapter, shall be deemed an exception to such minimum frontage requirement, and a commercial establishment may be constructed thereon provided all other requirements of this chapter, unless specifically excepted in this section, shall be maintained.

(7) *Outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas.* The outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas shall be subject to the provisions of, and approved by the city controller in accordance with Chapter 961 of this Code, and shall not be subject to the provisions of this chapter.

(8) *Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.*

a. A nonconforming use in a district of this chapter (as adopted by the Metropolitan Development Commission under docket number 69-AO-1) shall be deemed to be legally established (relative to both use and development standards) if the use:

1. Existed prior to April 8, 1969; and
2. Has continued to exist from April 8, 1969, to the present; and
3. Has not been abandoned; and
4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The rules of procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to, the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969, must have been done in conformity with these regulations and have been done for uses permitted by this chapter. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this chapter.

c. This subsection (a)(8) shall:

1. Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).

2. Not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.

3. Not apply to a property if written records of:

Health and Hospital Corporation of Marion County;

Fire department having jurisdiction over the property;

Local law enforcement agency or agencies having jurisdiction over the property; or

Indiana Department of Environmental Management or Department of Natural Resources;

for the twenty-four-month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

d. Definition of "significant violation." For purposes of this provision, a violation is defined to be significant as:

Any outstanding violation or three (3) or more separate citations from any of the health and safety agencies referred to in subsection (a)(8)c.3.; or

Any citation or violation of Sections 302, 304, 310, 311, 313, and 701 of Chapter 10 of the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or

One (1) or more convictions of a tenant, owner or lessee for criminal activities occurring on the property.

(9) *Compliance with Chapter 731, Article III.* In compliance with IC-36-7-4-701, the Metropolitan Development Commission and city-county council have set forth the following zoning districts in which subdivision of

land is required to comply with the provisions of Chapter 731, Article III of this Code:

Any commercial district, as noted in this chapter, which permits single-family or two-family dwellings. Specifically, the applicable district is the C-S (special commercial) classification, if single- or two-family dwelling development is approved as a permitted use.

Condominium development shall not be regulated by Chapter 731, Article III of this Code, but shall be regulated per IC 32-1-6.

(10) *Chapter 735, Article IX.* In any commercial district, a wireless communication facility (as defined in, and subject to the additional regulations of, Chapter 735, Article IX of this Code), is permitted.

(b) *Performance standards.* All uses established or placed into operation after April 8, 1969, shall comply with the following performance standards. No use in existence on the effective date of this chapter shall be so altered or modified as to conflict with these standards.

(1) *Vibration.* No use shall cause earth vibration or concussions detectable beyond the lot lines without the aid of instruments.

(2) *Smoke, dust and particulate matter.* Smoke, dust, particulate matter and any other airborne material shall be subject to the standards and regulations of Chapter 511 of this Code, which ordinance is on file in the office of the Division of Planning, Department of Metropolitan Development of Marion County, Indiana, and is hereby incorporated by reference and made a part hereof.

(3) *Noxious matter.* No use shall discharge across the lot lines noxious, toxic and corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.

(4) *Odor.* No use shall emit across the lot lines odor in such quantities as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.

(5) *Sound.* No use shall produce sound in such a manner as to endanger the public health, safety or welfare, or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.

(6) *Heat and glare.* No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.

(7) *Waste matter.* No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the division of public health of the Health and Hospital Corporation of Marion County, Indiana, the Indiana State Board of Health, the Stream Pollution Control Board of the State of Indiana and the Department of Public Works of Indianapolis, Indiana, or in such a manner as to endanger the public health, safety or welfare or cause injury to property.

(c) *Prohibited uses (G.O. 92, 1994).* Uses for which the following Special Use Districts are provided, under Chapter 735, Article VII of this Code, shall not be permitted in any commercial zoning district created under this chapter:

SU-8 Correctional and penal institution

SU-10 Cemetery

SU-13 Sanitary landfill

SU-18 Light or power substation

SU-23 Permanent gravel or sand processing plant, rock crushing, grinding or milling and stockpiling

SU-28 Petroleum refinery and petroleum products storage

SU-35 Telecommunication receiving or broadcasting tower and associated accessory buildings

SU-39 Water tank, water pumping station and similar structures not located on buildings

SU-41 Sewage disposal plant; garbage feeding and disposal

SU-42 Gas utility

SU-43 Power transmission lines

SU-44 Off-track pari-mutuel wagering facilities, licensed as satellite facilities under IC 4-31-5.5.

(G.O. 2, 2002, § 12)

### **Sec. 732-201. C-1 Office-Buffer Commercial District.**

*Statement of purpose:* The C-1 District is designed to provide specific areas where office uses, compatible office-type uses, such as medical and dental facilities, education services, and certain public and semi-public uses may be developed with the assurance that retail and other heavier commercial uses with incompatible characteristics will not impede or disrupt this district's function as a buffer. Since these office, office-type and public and semi-public structures are typically much less commercial in appearance and architecturally more harmonious with residential structures, this district can serve as a buffer between protected districts and more intense commercial or industrial areas/districts. This district, with its offices and other buffer type uses, also is designed for use along certain thoroughfares where a gradual and reasonable transition from existing residential use should occur.

(a) *Permitted C-1 uses.* Permitted uses in the C-1 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-1 District development standards of subsection (b) of this section. The following uses shall be permitted in the C-1 District:

- (1) Assisted-living facility.
- (2) Auditorium, assembly hall.
- (3) Community, multiservice, neighborhood or senior citizens' center.
- (4) Day care center (adult, child or handicapped).
- (5) Health services, (excluding hospitals, plasma centers, or substance abuse treatment facility), including the following:
  - Blood donor stations
  - Convalescent or nursing homes



Immediate care facilities

Intermediate care facilities

Medical or dental laboratories

Nursing care (skilled) facilities

Offices and clinics of:

Chiropractors

Dentists

Optometrists

Osteopathic physicians

Outpatient clinics

Physicians (MD)

Podiatrists

(6) Membership organization or club, any type. The following organizations, however, shall be limited to offices only:

Athletic club

Automobile owners' association or club

Condominium association (except property management)

Contractor's association

Farm bureau or grange

Fraternity or sorority

Homeowner's association (except property management)

Manufacturer's institute

Tenant association (except property management)

(7) Mortuary, funeral home.

(8) Office use, any type including:

Business or personal service

Financial (bank, savings and loan, credit union, etc.)

Governmental

Professional

Social services (office only)

(9) Office or studio of the following:

Radio station

Television station

(10) Public and semi-public uses, including:

Art gallery (excluding sales)

Civic clubs

Library

Museum

Planetarium

(11) Schools/educational services, shall include only the following:

Business and secretarial

Clerical

Correspondence

Data processing

Junior college

Language

Music

Nursery

Vocational or technical

(12) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and in the same building with the primary use and accessory retail and service commercial uses as permitted below and subject to the provisions of subsection 732-201(b)(1)g.

Cafeteria (serving only employees and guests only)

Drug store/pharmacy

Florist (including florist telegraph service)

News dealers and newsstands

Office supplies

Optical goods

Photocopying and duplicating services

Restaurant (serving office employees and guests only)

(13) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of subsection 732-214 (e).

(b) *C-1 development standards.*

(1) *Use.*

a. All uses and operations (except off-street parking, off-street loading and delivery, and drive-through customer service windows) shall be conducted completely within enclosed buildings. On-site vehicular circulation and traffic patterns for all drive-through facilities shall be subject to the requirements of section 732-213.

b. No outdoor storage shall be permitted, except trash containers. Trash containers exceeding six (6) cubic feet shall:

1. Be completely screened on at least three (3) sides within a

solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

2. Be located behind the established front building line; and

3. Not be located within a required yard or required transitional yard.

c. No vending machines shall be permitted on the exterior of any building or structure on the premises. Vending machines may be located within a building.

d. No merchandise shall be produced, stored or handled on the premises for purposes of delivery or for sale at retail, wholesale, or discount to the public or other businesses unless minor and incidental to the function of the permitted primary use or as reasonably needed for the supportive services or permitted accessory retail and service commercial uses.

e. No exterior display windows or other exterior display displaying, promoting or advertising products, merchandise or services retailed, offered, promoted or advertised by the use occupying the premises, shall be permitted.

f. Automated teller machines (ATM's) are permitted accessory uses in this district, provided they are not freestanding. ATM's shall meet the requirements of section 732-213 if they are drive-through in nature.

g. Accessory uses or structures, if utilized, shall:

1. Have a total gross floor area for accessory retail or service commercial uses which does not exceed ten (10) percent of the total gross floor area of the primary building in which the use is located; and

2. Have accessory retail or services commercial uses for the primary purpose of serving the occupants or employees of the primary use structures; and

3. Have a total gross square footage for all accessory structures which does not exceed ten (10) percent of the total gross square footage of all primary structures on the lot.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to subsection 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of subsection 732-200 (a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* A side setback and landscaped side yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of subsection 732-201(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* A rear setback and landscaped rear yard of not less than ten (10) feet in depth, measured from and

paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of subsection 732-201(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of subsection 732-201(b)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of subsection 732-200(a)(3)b. or c. or subsection 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifteen (15) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yard and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of subsection 732-201(b) (6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials, subject to the requirements of subsection 732-214(g), and shall remain as open space free from structures except where expressly permitted by this chapter:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of subsection 732-214(a).

b. *Required side and rear yards:*

1. May include pedestrian walks, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. May include interior access drives and parking areas, unless

subject to the transitional yard requirements of subsection 732-201(b)(6) or (8), provided a six-foot wide landscaped strip of the required yard, adjacent to the lot line while paralleling and extending the full length of such lot line, except when interrupted by interior access driveway(s), shall be maintained.

c. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas or interior access drives, unless subject to the provisions of subsection 732-214(a).

(8) *Maximum height of buildings and structures.* Fifty (50) feet, subject to the exceptions noted in subsection 732-200(a)(5). Provided, however:

- a. Along any required front, side or rear transitional yard as specified in subsection 732-201(b)(6), the minimum required setback for that portion of the building exceeding thirty-five (35) feet shall be increased by one (1) foot for each additional one (1) foot, or part thereof, of building or structural height above thirty-five (35) feet (see section 732-217, Diagram I).
- b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional development requirement.* Site and landscape plans, street requirements, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

## **Sec. 732-202. C-2 High Intensity Office-Apartment Commercial District.**

*Statement of purpose:* The C-2 District is designed to permit, in certain areas within the inner city along a few suitable arterial streets and in association with regional commercial complexes in the suburbs, the development of high-rise office uses or apartments intermixed, grouped in varying combinations or provided in the same building. The structural similarity and the possible functional interrelationship of living and working space can create an unusual compatibility of land use, especially in locations where access is particularly good. This type of district may represent a subordinate development to and near the Central Business District, the dominant function of an "uptown" location within the inner city or a major feature of a suburban, regional commercial focal point or planned community.

(a) *Permitted C-2 uses.* Permitted uses in the C-2 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-2 District

development standards of section 732-202(b). The following uses shall be permitted in the C-2 District:

- (1) Any use permitted in the C-1 District.
- (2) Assisted-living facility.
- (3) Attached multifamily dwellings, subject to, and conforming to, all standards, requirements, regulations and definitions of section 732-200 (general regulations), section 732-217 (definitions), and section 732-213 (D-8 dwelling district eight regulations) of Chapter 731, except for those pertaining to building height, yards and setbacks, in which case the regulations pertaining to those items found in section 732-202 of this chapter shall apply.
- (4) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and in the same building with the primary use, and accessory retail and service commercial uses, as permitted below and subject to the requirements of section 732-202(b)(1)g.

Art gallery (sales/rental of art)

Bakery

Barber shop (excluding schools/colleges)

Beauty shop (excluding schools/colleges)

Book store (new or used, excluding adult book stores)

Cafeteria (for office employees or guests only)

Candle shop

Candy, nut or confectionery store

Card shop

Drug store, pharmacy

Florist (including florist telegraph service)

Gift, novelty or souvenir shop

News dealers and newsstands

Office supplies

Optical goods (excluding optometrists)

Photocopying and duplicating services

Photographic studio, portrait

Photographic supplies

Pressing service, apparel

Restaurant (for office employees or guests only)

Shoeshine parlor

Stationery store

Tobacco store or stand

- (5) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land

during construction shall be subject to the requirements of section 732-214(e).

(b) *C-2 development standards.*

(1) *Use.*

a. All uses and operations (except off-street parking, off-street loading and delivery, and drive-through customer service windows) shall be conducted completely within enclosed buildings. On-site vehicular circulation and traffic patterns for all drive-through facilities shall be subject to the requirements of section 732-213.

b. No outdoor storage shall be permitted, except trash containers. Trash containers exceeding six (6) cubic feet shall:

1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

2. Be located behind the established front building line; and

3. Not be located within a required yard or required transitional yard.

c. No vending machines shall be permitted on the exterior of any building or structure on the premises. Vending machines may be located within a building.

d. No merchandise shall be produced, stored or handled on the premises for purposes of delivery or for sale at retail, wholesale, or discount to the public or other businesses unless minor and incidental to the function of the permitted primary use or as reasonably needed for the supportive services or permitted accessory retail and service commercial uses.

e. No exterior display windows or other exterior display displaying, promoting or advertising products, merchandise or services retailed, offered, promoted or advertised by the use occupying the premises, shall be permitted.

f. Automated teller machines (ATM's) are permitted accessory uses in this district provided they are not freestanding. ATM's shall meet the requirements of section 732-213 if they are drive-through in nature.

g. Accessory uses or structures, if utilized, shall:

1. Have a total gross floor area for accessory retail or service commercial uses which does not exceed ten (10) percent of the total gross floor area of the primary building in which the use is located; and

2. Have accessory retail or service commercial uses for the primary purpose of serving the occupants and/or employees of the primary use structure; and

3. Have a total gross square footage for all accessory structures which does not exceed ten (10) percent of the total gross square footage of all primary structures on the lot; and

4. Not erect or maintain exterior signs announcing accessory uses or structures.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* A side setback and landscaped side yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-202(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* A rear setback and landscaped rear yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-202(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-202(b)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c., or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifteen (15) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yards and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-202(b)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials,



subject to the requirements of section 732-214(g), and shall remain as open space free from structures except where expressly permitted by this chapter:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required side and rear yards:*

1. May include pedestrian walks, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. May include interior access drives and parking areas, unless subject to the transitional yard requirements of section 732-202(b) (6) or (8), provided a six-foot wide landscaped strip of the required yard, adjacent to the lot line while paralleling and extending the full length of such lot line, except when interrupted by interior access driveway(s), shall be maintained.

c. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* There shall be no height limitation for buildings and structures provided that:

- a. Minimum required front, side and rear yard setbacks shall be increased by one (1) foot for each three (3) additional feet, or part thereof, of building or structural height above thirty-five (35) feet to a maximum front, side or rear building setback requirement of thirty (30) feet; and
- b. Minimum required setback along any required front, side or rear transitional yard as specified in section 732-202(b)(6), the minimum required setback for that portion of the building exceeding thirty-five (35) feet shall be increased by one (1) foot for each additional one (1) foot, or part thereof, of building or structural height above thirty-five (35) feet (see section 732-217, Diagram I).
- c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional developments requirements.* Site and landscape plans, street requirements, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

### **Sec. 732-203. C-3 Neighborhood Commercial District.**

*Statement of purpose:* The C-3 District is designed to permit the development of a complete range of retail sales and personal, professional and business services required to meet the maximum demand of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail and personal and professional service establishments. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; require outdoor operations; or permit outdoor service and consumption of food and beverages. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.

(a) *Permitted C-3 uses.* Permitted uses in the C-3 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-3 District development standards of section 732-203(b). The following uses shall be permitted in the C-3 District:

- (1) Any use permitted in the C-1 District (except convalescent or nursing home, assisted-living facility, day care center).
- (2) Automobile oil change or lubrication shops, subject to the provisions of section 732-203(b)(1)f.
- (3) Check cashing or validation service.
- (4) Coupon or trading stamp redemption service.
- (5) Drinking place (no dancing or entertainment), subject to the provisions of section 732-203(b)(1)e., including:
  - Bar
  - Tavern
- (6) Eating place, any type of restaurant, subject to the provisions of section 732-203(b)(1)e.
- (7) Emergency shelter.
- (8) Gasoline service station (except truck stop), subject to the provisions of section 732-203(b)(1)f.
- (9) Outdoor advertising signs, subject to the sign regulations of Chapter 734 of this Code.
- (10) Parcel packing/mailing service (excluding industrial).
- (11) Personal service establishment, including the following:
  - Barber shop
  - Beauty shop
  - Dry cleaning or laundry pickup stations

Garment pressing laundromats  
Interior decorator  
Key duplicating shop  
Locksmith  
Mail order store  
Photofinishing ("one-hour" photo service)  
Photography studio  
Power laundry  
Radio or television service  
Tailor, seamstress or dressmaker  
Tanning salon  
Tattoo parlor  
(12) Post office.  
(13) Rental or leasing of:  
Clothing  
Computers  
Costumes  
Furniture  
Office machines.  
(14) Repair of:  
Bicycles  
Cameras  
Clocks, watches or jewelry  
Computers  
Dental instruments  
Drafting instruments  
Musical instruments  
Optical goods  
Radios or televisions  
Shoes  
Typewriters  
(15) Retail-type use, including the following:  
Antique store  
Appliance store (household or minor)  
Clothing, apparel or accessory store, any type, including uniforms

Bait and tackle shop  
Bicycle store  
Book store (new or used, excluding adult book stores)  
Camera and photographic supply store  
Card store  
Computer or computer software store  
Department store, any type  
Drapery/curtain store  
Drug store  
Fabric store  
Food store, any type, including:  
    Bakery  
    Candy, nut or confectionery stores  
    Convenience market\*  
    Deli  
    Grocery store  
    Produce, fruit, fish or meat markets  
Floor covering store, including: carpet, linoleum, tile  
Florist (including telegraph service)  
Frame shop  
Furniture store, any type  
Gift shop  
Hardware store  
Hobby, toy or game shop, including:  
    Arts and crafts shop  
Hospital and sick room sales/rental and equipment  
Jewelry store  
Liquor store (package)\*\*  
Luggage and leather goods  
Music store, new or used, including:  
    Musical instrument store  
    Record, tape or compact disc store  
    Sheet music store  
Office supply store  
Optical goods store

Paint or wallpaper store  
Pawn shop  
Pet grooming  
Pet obedience school  
Pet shop  
Pool and billiard table store  
Radio, television or consumer electronics store  
Religious goods store  
Second hand store (excluding automotive or building materials)  
Stationer  
Telephone store  
Tobacco store  
Trading stamp center  
Trophy shop  
Typewriter shop  
Variety store

\* Subject to the provisions of section 732-203(b)(1)f.

\*\* Subject to the provisions of section 732-203(b)(1)e.

(16) Schools, including:

Art

Barber college/school

Beauty or cosmetology college/school

Dance

Karate or martial arts

Photography

(17) Singing society.

(18) Social club, membership.

(19) Temporary seasonal retail sales use, subject to the provisions of section 732-214(f).

(20) Other uses similar and comparable in character to the above permitted uses.

(21) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-203(b)(1)g.

(22) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-3 development standards.*

(1) *Use.*

a. No single use, whether freestanding or contained within an integrated center, shall exceed sixty thousand (60,000) square feet of gross floor area. No shopping center or integrated center shall exceed one hundred twenty-five thousand (125,000) square feet of total gross floor area.

b. All uses and operations (except off-street parking, off-street loading and drive-through customer service windows) shall be conducted completely within enclosed buildings, except where otherwise specifically permitted. On-site vehicular circulation and traffic patterns for all drive-through facilities shall be subject to the requirements of section 732-213.

c. No outdoor storage shall be permitted, except:

1. Trash containers. Trash container(s) exceeding six (6) cubic feet shall:

i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard.

2. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).

d. Vending machines shall be permitted, provided the machine(s) shall:

1. Be located within a building; or

2. Be located on the exterior of a building abutting its exterior wall; and

3. Not be located within a required yard or required transitional yard.

e. Taverns, package liquor stores, fast food or drive-through restaurants, and such establishments, where food or alcoholic beverages may be carried out, shall:

1. Provide adequate outdoor convenience trash containers; and

2. Not provide outdoor tables and/or seats; and

3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).

f. Gasoline service stations, lubricating and oil change services, convenience markets, services centers or functions, shall:

1. Not include the following:

i. Any outdoor service operations (other than the dispensing or installation of gasoline, oil, antifreeze, headlights, wiper blades and other similar products and the performance of minor services for customers as related to such dispensing or installation);

ii. The sale, rental, display or storage of vehicles, trailers, tractors, machinery or other similar equipment;

iii. Commercial parking of vehicles;

iv. Major servicing or motor or body repair such as, but not limited to, body or fender work, motor overhaul, major transmission repair, auto glass work, tire recapping, muffler repair or installation, auto body painting or trim shops; or

v. Dismantling or wrecking of any vehicles, or the storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.

2. The exterior display, sale or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided such display or storage is:

i. Accessory to the primary use; and

ii. Located immediately adjacent to the primary structure, but not within any required yard or required transitional yard; and

iii. Not more than two hundred (200) square feet in total area; and

iv. Maintained in an orderly manner; and

v. Not illuminated.

3. A maximum of three (3) accessory indoor service bays may be provided for minor automotive servicing and repair. "Service bay" is defined in section 732-217.

g. Accessory uses or structures shall have a total gross floor area which does not exceed twenty-five (25) percent of the total gross floor area of the primary uses or structures.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* No side yard or side

setback shall be required unless subject to the requirements for transitional yards of section 732-203(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* No rear yard or rear setback shall be required unless subject to the requirements for transitional yards of section 732-203(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-203(b)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c. or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yards and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-203(b)(6) shall not apply in those instances where a commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards.* All required yards and required transitional yards shall be landscaped with grass and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access



driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas, interior access drives, or outdoor display or storage areas, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Thirty-five (35) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however:

a. Along any required front, side or rear transitional yard, as specified in section 732-203(b)(6), the minimum required setback for that portion of the building exceeding eighteen (18) feet shall be increased by one (1) foot for each one (1) foot, or part thereof, of building or structural height above eighteen (18) feet (see section 732-217, Diagram I).

b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

### **Sec. 732-204. C-3C Corridor Commercial District.**

*Statement of purpose.* The C-3C (Commercial Corridor) District, like the C-3 (Neighborhood Commercial) District, is designed for those professional offices and commercial businesses which typically do not draw customers from beyond their respective neighborhood boundaries. Examples of such types of uses include sales of retail convenience or durable goods, shopping establishments, and personal and professional service establishments. It is planned, therefore, for use in older urban commercial areas, which are located adjacent to established residential neighborhoods on select segments of primary and secondary thoroughfares. Characterized by small-scale commercial buildings abutting the pedestrian walkway and vehicular traffic, these areas often suffer from limited availability of off-street parking. In addition, certain redevelopment areas and infill projects can be suitably located in a C-3C District. To encourage the optimal utilization of these types of commercial areas, residential units are permitted in commercial buildings. This feature and the location of this district within walking distance to residential districts dictate that selected types of offices and other commercial uses which do not generate substantial vehicular traffic locate in the C-3C District. In order to perform its buffering function, floor areas are restricted, screening with fences, walls or landscaping is required and other similar amenities are necessary for optimum compatibility of this district with the adjacent residential development.

(a) *Permitted C-3C uses.* Permitted uses in the C-3C District shall conform to the

general commercial district regulations and performance of section 732-200 and the C-3C District development standards of section 732-204(b). The following uses shall be permitted in the C-3C District:

- (1) Any use permitted in the C-1 District (except convalescent or nursing home, day care center).
- (2) Dwelling unit(s), as defined in section 732-217.
- (3) Eating place, any type of restaurant, subject to the provisions of section 732-204(b)(1).
- (4) Membership organization or club, any type.
- (5) Outdoor advertising signs, subject to the sign regulations of Chapter 734 of this Code.

- (6) Personal service establishments, including the following:

- Barber shop
- Beauty shop
- Check cashing or validation service
- Clothing rental, including costume or tuxedo
- Computer store
- Furniture rental/leasing
- Hat cleaning and blocking shop
- Garment pressing
- Laundromats, coin-operated laundries and drycleaning
- Locksmith
- Pet grooming
- Photography studio
- Tailor, seamstress or dressmaker
- Tanning salon

- (7) Repair of:

- Bicycles
- Cameras
- Clocks, watches or jewelry
- Computers
- Dental instruments
- Drafting instruments
- Musical instruments
- Optical goods
- Radios or televisions
- Shoes
- Typewriters.

(8) Retail-type use, including the following:

Antique store

Appliance store (household or minor)

Clothing, apparel or accessory store, any type, including uniforms

Bait and tackle shop

Bicycle store

Book store (new or used, excluding adult book store)

Camera and photographic supply store

Card store

Computer or computer software store

Drapery/curtain store

Dry goods store

Fabric store

Floor covering store, including: carpet, linoleum, tile

Florist (including telegraph service)

Food store, any type, including:

Bakery

Candy, nut or confectionery stores

Deli

Grocery store

Produce, fruit, fish or meat markets

Frame shop

Furniture store, any type

Gift shop

Hardware store

Hobby, toy or game shop, including:

Arts and crafts shop

Jewelry store

Luggage and leather goods

Music store, new or used, including:

Musical instrument store

Record, tape or compact disk store

Sheet music store

Office supply store

Optical goods store

Paint or wallpaper store

Religious goods store

Shoe store

Sporting goods store

Stationer

Telephone store

Tobacco store

Trophy shop

Typewriter shop

Variety store

Video tape rental or sales

(9) Other uses similar and comparable in character to the above permitted uses.

(10) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-204(b)(1)h.

(11) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-3C development standards.*

(1) *Use.*

a. No single commercial establishment shall exceed eight thousand (8,000) square feet of gross floor area.

b. All uses and operations (except off-street parking, and off-street loading) shall be conducted completely within enclosed buildings.

c. No outdoor storage shall be permitted, except:

1. Trash containers. Trash container(s) exceeding six (6) cubic feet shall:

i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard.

2. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).

d. No vending machines shall be permitted on the exterior of any building or structure on the premises. Vending machines may be located within a building.

e. No outdoor display promoting products, merchandise or services retailed or offered by the use occupying the premises shall be permitted.

f. No commercial establishment shall be permitted to use a drive-through service unit.

g. Automated teller machines (ATM's) are permitted accessory uses in this district provided that the machine(s) shall serve pedestrian traffic only.

h. Accessory uses or structures shall have a total gross floor area which does not exceed twenty-five (25) percent of the total gross floor area of the primary uses or structures.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* No side yard or side setback shall be required unless subject to the requirements for transitional yards of section 732-204(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* No rear yard or rear setback shall be required unless subject to the requirements for transitional yards of section 732-204(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-204(b)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c. or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifteen (15) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yard and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-204(b)(6) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214, and shall remain as open space free from structures except where expressly permitted by this chapter including the following regulations:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Thirty-five (35) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however: The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Drive-through facilities shall be prohibited.

(13) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

## **Sec. 732-205. C-4 Community-Regional Commercial District.**

*Statement of purpose:* The C-4 District is designed to provide for the development of

major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as department stores, bowling alleys and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

(a) *Permitted C-4 uses.* Permitted uses in the C-4 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-4 District development standards of section 732-205(b). The following uses shall be permitted in the C-4 District:

- (1) Any use permitted in the C-1, or C-3 districts (except convalescent or nursing home, day care center).
- (2) Adult entertainment business (as defined in section 732-217 and subject to the provisions of section 732-216).
- (3) Auction rooms.
- (4) Automobile (car) wash, subject to the provisions of section 732-205(b)(1)h.
- (5) Automotive-related uses, including:
  - Air conditioning equipment (sale or installation)
  - Brake system repair or service
  - Detailing/trim shop
  - Supply store (tire, battery, parts or accessories, new or used)
  - Exhaust system (muffler) repair shop
  - Repair shop (except truck or bus)
  - Rust proofing (except truck or bus)
  - Speed shop
  - Tire:
    - Alignment
    - Dealers
    - Retreading or repair shop
- (6) Bed and breakfast inn.
- (7) Blueprinting.
- (8) Business and personal services, including:
  - Medical equipment rental or leasing
  - Music distribution system (except coin operated)
  - Recording studio
  - Security system services
  - Typesetting
  - Upholsterers
  - Veterinarian

- (9) Commercial parking lot or structure.
  - (10) Drinking places (tavern, bar, cabaret, night club), subject to the provisions of section 732-205(b)(1)d.
  - (11) Engraving service for identification.
  - (12) Fire station.
  - (13) Fraternal lodge (nonresidential).
  - (14) Hotel, motel or tourist court, including hotels operated by organizations for members only.
  - (15) Indoor commercial amusement/recreation establishments, including:
    - Amusement arcade\*
    - Ballroom
    - Bathhouse
    - Bingo establishment
    - Bowling alley
    - Firing (gun) range
    - Gymnasium
    - Instruction in:
      - Baseball
      - Basketball
      - Gymnastics
    - Miniature golf
    - Shooting gallery/range
    - Skating rink, ice or roller (including instruction)
    - Slot car racetracks
    - Tennis court/club, membership
    - Trampoline center
- \* Special exception required (see section 732-215, special exception provisions).
- (16) Job printing.
- (17) Massage parlor\*
  - \* Special exception required (see also section 732-216, adult entertainment business, if applicable).
- (18) Substance abuse treatment facility, subject to the provisions of section 732-205(b)(1)f. and i.
- (19) Parking lot (as primary use).
- (20) Plasma (blood) center.
- (21) Post office.
- (22) Repair services, including:



Air conditioning service or repair, window units only

Antique repair or restoration

Furniture reupholstery or refinishing

Laboratory instrument repair

Lawn mower repair shop

Leather goods repair shop

Luggage repair shop

Sewing machine repair shop

Surgical instrument repair

(23) Retail-type uses, including:

Air conditioner sales (window type only)

Appliance store (major household)

Firearms/gun sales

Fireworks sales

Flea market (indoor)

Garden shop/nursery, retail

Gymnasium equipment sales

Hot tub sales

Lawn and garden supply store

Lumber and other building materials (including home improvement center)

Orthopedic and artificial limb store

Playground equipment

Plumbing sales and service (excluding contractor)

Swimming pool sales

(24) Rooming and boarding houses.

(25) Temporary seasonal retail sales uses, subject to the provisions of section 732-214(f).

(26) Theatre, including:

Dinner theatre

Legitimate

Motion picture (except drive-in)

(27) Other uses similar and comparable in character to the above permitted uses.

(28) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-205(b)(1)i.

(29) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-4 development standards.*

(1) *Use.*

a. All uses and operations shall be conducted completely within enclosed buildings except:

1. Off-street parking and off-street loading; and
2. Drive-through customer service windows, subject to the requirements of section 732-213, drive-through stacking space regulations; and
3. Outdoor display or sale of merchandise is permitted, provided such display shall:
  - i. Be accessory to the primary use; and
  - ii. Have a total square footage not exceeding one (1) percent of the total gross square footage of the establishment. However, each establishment, regardless of size, shall be permitted a minimum of two hundred (200) square feet for outdoor display; and
  - iii. Be located immediately adjacent to the primary structure, but not within any required yard or required transitional yard; and
  - iv. Not utilize any required off-street parking space or area; and
  - v. Be screened in accordance with section 732-214(g) (landscaping, screening, and grounds maintenance); and
  - vi. Be maintained in an orderly manner.

b. No outdoor storage shall be permitted, except:

1. Trash containers. Trash container(s) exceeding six (6) cubic feet shall:
  - i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
  - ii. Be located behind the established front building line; and
  - iii. Not be located within a required yard or required transitional yard.
2. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).

c. Vending machines shall be permitted, provided the machine(s) shall:

1. Be located within a building; or

2. Be located on the exterior of a building abutting its exterior wall; and
  3. Not be located within a required yard or required transitional yard; and
  4. Not be used in the calculation of the square footage of minor displays of merchandise placed outdoors as noted in section 732-205(b)(1)a.3.
- d. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:
1. Provide adequate outdoor convenience trash containers; and
  2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
  3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and
  4. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.
- e. Fast food or drive-through restaurants, and such establishments where food may be carried out shall:
1. Provide adequate outdoor convenience trash containers; and
  2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
  3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).
- f. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any:
1. Substance abuse treatment facility;
  2. Tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out

(except drug stores or grocery stores).

The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject substance abuse treatment facility, tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.

g. Gasoline service stations, convenience markets, service centers or functions, services, operation and sales shall not include the following:

1. Any outdoor operations (other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to such dispensing or installation);
2. The sale, rental, display or storage of vehicles, trailers, tractors, machinery or other similar equipment;
3. Commercial parking of motor vehicles;
4. Major servicing or motor or body repair such as, but not limited to, body or fender work, motor overhaul, major transmission repair, auto glass work, tire recapping; or
5. Dismantling or wrecking of any motor or other vehicles, or the storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.

The exterior display, sale or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided, however, that the provisions of section 732-205(b)(1)a.3. are maintained.

h. Car wash establishments shall:

1. Be subject to the drive-through off-street stacking space regulations of section 732-213; and
2. Not conduct any drying, cleaning, polishing, dispensing of gasoline, or other comparable operation within any required yard or required transitional yard; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and
4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.
5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

i. Substance abuse treatment facility shall:

1. Not be located within five hundred (500) feet, measured in any direction, of a protected district. The measurement shall be

taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district (see section 732-217, Diagram J); and

2. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.

j. Accessory uses or structures shall have a total gross floor area which does not exceed twenty-five (25) percent of the total gross floor area of the primary structures or uses.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* No side yard or side setback shall be required unless subject to the requirements for transitional yards of section 734-205(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* No rear yard or rear setback shall be required unless subject to the requirements for transitional yards of section 732-205(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-205(b)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c., or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yard and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-205(b)(6) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas, interior access drives, or outdoor display or storage areas, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Sixty-five (65) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however:

- a. Along any required front, side or rear transitional yard, as specified in section 732-205(b)(6), the minimum required setback for that portion of the building exceeding eighteen (18) feet shall be increased by one (1) foot for each one (1) foot, or part thereof, of building or structural height above eighteen (18) feet (see section 732-217, Diagram I).
- b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code. Additional regulations specific to adult entertainment businesses are found in section 732-216.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

(14) *Special regulations, adult entertainment business.* In addition to the requirements of this section, adult entertainment businesses shall be in accordance with section 732-216, special regulations - adult entertainment business.

### **Sec. 732-206. C-5 General Commercial District.**

*Statement of purpose:* The C-5 District is designed to provide areas for those retail sales and service functions whose operations are typically characterized by outdoor display, or sales of merchandise; by major repair of motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lighted, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, they should be grouped on heavy commercial thoroughfares and should avoid locating adjacent to protected districts.

(a) *Permitted C-5 uses.* Permitted uses in the C-5 District shall conform to the general commercial district regulations and performance of section 732-200 and the C-5 District development standards of section 732-206(b). The following uses shall be permitted in the C-5 District:

(1) Any use permitted in the C-1, C-3, or C-4 districts (except convalescent or nursing home, day care center).

(2) Automotive-related uses, including:

Automobile:

Dealers

Leasing, passenger

Rental, passenger

Body repair/paint shop

Glass replacement shop

Motorcycle:

Dealers

Rental

Repair shop

Paint shop

Recovery service

Repossession service

Tractor:

Dealers

Repair or service

Transmission repair shop

Truck or bus:

Dealers, one-half-ton load capacity or less (including servicing)

(3) Business and personal services, including:

Bottle exchanges

Equipment rental or leasing:

Light

Tool

Repossession service, other than automotive

(4) Caterer.

(5) Commercial or recreational amusement establishments, including:

Boat or canoe rental

Fishing lake operation, commercial or private

Gocart raceways (including rental)

Golf uses, including:

Cart rental

Driving range

Miniature

Pitch-n-putt

Railroads, scenic

Sports, professional or semi-professional

(6) Commissary restaurant.

(7) Newspaper publishing and printing.

(8) Repair services, including:

Antennas, household (installation and service)

Gas appliance

(9) Retail-type uses, including:

Flea market (outdoor)

Gravestones or monuments, finished

(10) Theatre, drive-in.

(11) Other uses similar and comparable in character to the above permitted uses.

(12) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-206(b)(1)i.

(13) Temporary structures, including fences, walls, buildings, barricades and



similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-5 development standards.*

(1) *Use.*

a. No outside storage shall be permitted except:

1. The temporary and accessory storage of vehicles awaiting repair, provided such storage be located behind the established front building line.

2. Trash containers shall be permitted, provided that container (s) exceeding six (6) cubic feet shall:

i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard.

3. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).

b. The outdoor display of goods or materials for sale, lease or rental may be conducted, provided that display areas shall:

1. Not be located in any required yards, required transitional yards, off-street parking areas or off-street loading areas;

2. Be of concrete, asphaltic pavement, brick, flagstone or comparable material maintained in good condition;

3. Be maintained in an orderly manner;

4. Be provided with bumper or wheel guards along the perimeter of any vehicular display area; and

5. Not be located in any way which conflicts or interferes with walks, parking areas, loading areas, driveways, interior access driveways, interior access drives, or landscaped required yards.

c. Vending machines shall be permitted, provided the machine(s) shall:

1. Be located within a building; or

2. Be located on the exterior of a building abutting its exterior wall; and

3. Not be located within a required yard or required transitional yard.

d. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:

1. Provide adequate outdoor convenience trash containers; and

2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
  3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and
  4. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.
- e. Fast food or drive-through restaurants, and such establishments where food may be carried out shall:
1. Provide adequate outdoor convenience trash containers; and
  2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
  3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).
- f. Any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any:
1. Substance abuse treatment facility;
  2. Tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject substance abuse treatment facility, tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.
- g. Gasoline services, stations, convenience markets, services centers or functions, shall be subject to the following regulations:
1. Gasoline service stations, convenience markets, service centers or functions, service operation and sales shall not include the following:
    - i. Any outdoor operations (other than the dispensing or

installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to such dispensing or installation); and

ii. Commercial parking of motor vehicles;

2. The exterior display, sale or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided, however, that the provisions of section 732-206(b)(1)b. are maintained.

3. Any display, sale or rental of motor vehicles or trailers conducted in association with a service station shall be located in a specific area, not located in or in any way conflicting or interfering with pedestrian walks, off-street parking areas, driveways, required yards, required transitional yards, or public rights-of-way.

4. There shall be no exterior displays which restrict traffic visibility in any way or which impede the movement of any vehicles on the service station or center driveways or public rights-of-way, or located in or in any way conflicting or interfering with walks, off-street parking areas or required landscaping yards. All exterior displays shall be maintained in an orderly manner.

5. Any major servicing or motor or body repair work shall be conducted within an enclosed structure, and shall not include:

i. The dismantling or wrecking of any motor or other vehicles; or

ii. The storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.

h. Car wash establishments shall:

1. Be subject to the requirements of section 732-213, drive-through off-street stacking space regulations; and

2. Not conduct any drying, cleaning, polishing, dispensing of gasoline, or other comparable operation within any required yard or required transitional yard; and

3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and

4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.

5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

i. Substance abuse treatment facilities shall:

1. Not be located within five hundred (500) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district (see section 732-217, Diagram J); and
  2. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.
- j. Accessory uses or structures shall have a total gross floor area which does not exceed twenty-five (25) percent of the total gross floor area of the primary structures or uses.
- k. Any lighting used to illuminate an outdoor area where any service or activity is conducted shall comply with the requirements of section 732-211(h). Further, it shall be prohibited to:
1. Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; and
  2. Make use of attention attracting lighting from any apparatus of any type similar to that used by emergency vehicles.
- (2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.
- (3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.
- (4) *Required minimum side yard, minimum side setback.* No side yard or side setback shall be required unless subject to the requirements for transitional yards of section 732-206(b)(6) or (8).
- (5) *Required minimum rear yards, minimum rear setback.* No rear yard or rear setback shall be required unless subject to the requirements for transitional yards of section 732-206(b)(6) or (8).
- (6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-206(b)(7) or (8) in addition to the following requirements:
- a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c., or section 732-214(a). In the case where a proposed right-of-way does not exist or the

existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yards and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-206(b)(6) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g) and shall remain as open space free from structures except where expressly permitted by this chapter.

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas, interior access drives, or outdoor display or storage areas, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Sixty-five (65) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however:

a. Along any required front, side or rear transitional yard, as specified in section 732-206(b)(6), the minimum required setback for that portion of the building exceeding eighteen (18) feet shall be increased by one (1) foot for each one (1) foot, or part thereof, of building or structural height above eighteen (18) feet (see section 732-217, Diagram I).

b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

- (9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code. Additional regulations specific to adult entertainment businesses are found in section 732-216.
- (10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.
- (11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.
- (12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.
- (13) *Additional developments requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.
- (14) *Special regulations, adult entertainment business.* In addition to the requirements of this section, adult entertainment businesses shall be in accordance with section 732-216, special regulations - adult entertainment business.

#### **Sec. 732-207. C-6 Thoroughfare Service Commercial District.**

*Statement of purpose:* The C-6 District is designed to permit development of limited service uses related to freeway, expressway or other thoroughfare interchanges and other controlled access locations along major arterial thoroughfares. This district is appropriate for locations where more concentrated types of commercial uses would be incompatible with the other uses in the vicinity. In this district, food, lodging and certain automotive services can be conveniently available to the thoroughfare user without creating the traffic congestion and hazards commonly associated with interchanges or intersections where large commercial districts have developed. The limited availability of locations and limited uses permitted in this district provide for maximum compatibility with adjacent districts.

(a) *Permitted C-6 uses.* Permitted uses in the C-6 District shall conform to the general commercial district regulations and performance of section 732-200 and the C-6 District development standards of section 732-207(b). The following uses shall be permitted in the C-6 District:

- (1) Adult entertainment business (as defined in section 732-217 and subject to the provisions of section 732-216).
- (2) Automobile leasing or renting, passenger.
- (3) Automobile (car) wash, subject to the provisions of section 732-207(b)(1)d.
- (4) Bed and breakfast inn.
- (5) Convenience market, subject to the provisions of section 732-207(b)(1)c.
- (6) Dinner theatre.
- (7) Drinking places (tavern, bar cabaret, night club), subject to the provisions of section 732-207(b)(1)b.
- (8) Eating places (any type of restaurant), subject to the provisions of section 732-207(b)(1)b.

(9) Gasoline service stations (except truck stops), subject to the provisions of section 732-207(b)(1)c.

(10) Hotel, motel, tourist court, including such uses operated by organizations for members only.

(11) Outdoor advertising signs, subject to Chapter 734 of this Code.

(12) Parking, automobile (as primary use).

(13) Rooming and boarding house.

(14) Accessory use structures, subordinate, appropriate and incidental to the above permitted uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-207(b)(1)f.

(15) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-6 development standards.*

(1) *Use.*

a. All uses and operations shall be conducted within completely enclosed buildings, except:

1. Off-street parking and off-street loading; and

2. Drive-through customer service windows, subject to the regulations of section 732-213; and

3. Minor displays of merchandise may be placed outdoors provided such displays are:

i. Accessory to the primary use; and

ii. Located immediately adjacent to the primary structure, but not within a required yard; and

iii. Not more than two hundred (200) square feet in total area; and

iv. Maintained in an orderly manner; and

v. Not illuminated; and

4. Trash containers shall be permitted, provided the container (s) exceeding six (6) cubic feet shall:

i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

ii. Be located behind the established front building line; and

iii. Not be located within a required yard or required transitional yard; and

5. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling

containers); and

6. Vending machines shall be permitted, provided the machine (s) shall:

- i. Be located within a building; or
- ii. Be located on the exterior of a building abutting its exterior wall; and
- iii. Not be located within a required yard or required transitional yard; and
- iv. Not be used in the calculation of the square footage of minor displays of merchandise placed outdoors as noted in section 732-207(b)(1)a.3.iii.

b. Fast food or drive-through restaurants, night club establishments and such establishments where food or alcoholic beverages may be carried out or may likely be consumed on the premises shall:

1. Provide adequate outdoor convenience trash containers; and
2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).

c. Gasoline service station, convenience market, service center or functions, services, operation and sales shall not include the following:

1. Any outdoor operations (other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to such dispensing or installation); and
2. The sale, rental, display or storage of vehicles, trailers, tractors, machinery or other similar equipment; and
3. Commercial parking of vehicles; and
4. Major servicing or motor or body repair such as, but not limited to, body or fender work, motor overhaul, major transmission repair, auto glass work, tire recapping, muffler repair or installation, auto body painting or trim shops; and
5. Dismantling or wrecking of any vehicle, or the storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.

The exterior display, sales or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided, however, that the provisions of section 732-207(b)(1)a.3. are maintained.

d. Car wash establishments shall:

1. Be subject to the drive-through off-street stacking space



regulations of section 732-213; and

2. Not conduct any drying, cleaning, polishing, dispensing of gasoline, or other comparable operation within any required yard or required transitional yard; and

3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and

4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.

5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

e. Any lighting used to illuminate an outdoor area where any service or activity is conducted shall comply with the requirements of section 732-211(h). Further, it shall be prohibited to:

1. Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; and

2. Make use of attention attracting lighting from any apparatus of any type similar to that used by emergency vehicles.

f. Accessory uses or structures shall: have a total gross floor area which does not exceed ten (10) percent of the total gross floor area of the primary structures or uses.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* No side yard or side setback shall be required unless subject to the requirements for transitional yards of section 732-207(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* No rear yard or rear setback shall be required unless subject to the requirements for transitional yards of section 732-207(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-207(b)(7) or (8) in addition to the following requirements:

a. Where a front yard abuts a street on the opposite side of which is a

protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c. or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yards and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-207(b)(6) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g), and shall remain as open space free from structures except where expressly permitted by this chapter:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Sixty-five (65) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however:

a. Along any required front, side or rear transitional yard, as specified in section 732-207(b)(6), the minimum required setback for that portion of the building exceeding eighteen (18) feet shall be increased by one (1) foot for each additional one (1) foot, or part thereof, of building or

structural height above eighteen (18) feet (see section 732-217, Diagram I).

b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code. Additional regulations specific to adult entertainment businesses are found in section 732-216.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

(14) *Special regulations, adult entertainment business.* In addition to the requirements of this section, adult entertainment businesses shall be in accordance with section 732-216, special regulations - adult entertainment business.

### **Sec. 732-208. C-7 High Intensity Commercial District.**

*Statement of purpose:* The C-7 District is designed to provide specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and storage of trucks, materials or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares but not in close association with those commercial activities involving shopping goods, professional services, restaurants, food merchandising, and the like. Due to the intensity of uses, location of this district adjacent to protected districts should be avoided.

(a) *Permitted C-7 uses.* Permitted uses in the C-7 District shall conform to the general commercial district regulations and performance of section 732-200 and the C-7 District development standards of section 732-208(b). The following uses shall be permitted in the C-7 District:

(1) Any use permitted in the C-1, C-2, C-3, C-3C, C-4, C-5 or C-6 districts (except convalescent or nursing home, day care center).

(2) Automotive-related uses, including:

Automobile:

Boat dealers

Farm equipment

Recreational vehicle (including mobile home, motor home and popup camper:

Dealers

Rental

Repair shop

Rust proofing:

Truck, bus or other automotive

Trailer, truck or bus rental

Truck or bus:

Dealers (of any load capacity)

Rental/leasing

Stops

Storage

Washes, automobile, bus or truck

(3) Business and personal services, including:

Auctioneering services

Blueprinting

Detective or armored car service

Equipment rental:

Heavy or construction

Job printing

Laundry, cleaning and garment services, including:

Carpet or upholstery

Dry cleaning plant

Industrial launderers

Linen supply

Liquidators of merchandise

Locker rental

Meter readers (remote)

Mini-warehouses

Rug cleaning or repair service

Swimming pool cleaning or maintenance

Water softener service

(4) Commercial amusement/recreational establishments, including:

Slot car racetracks

(5) Repair services, any type.

(6) Retail-type uses, including:

Farm equipment sales or service  
Firearm/gun sales  
Fireworks sales  
Glass fabrication/installation  
Ice dealers  
Mobile home dealer  
Model home, garage, outbuilding sales (including barns, sheds)  
Swimming pool installation

(7) Temporary seasonal retail sales uses, subject to the provisions of section 732-214(f).

(8) Other uses similar and comparable in character to the above permitted uses.

(9) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-208(b)(1)l.

(10) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-7 development standards.*

(1) *Use.*

a. Merchandise and products for sale; storage of materials, products, machinery and equipment; and operations incidental to the primary use may be located outdoors. Provided, however, outdoor storage and operations within five hundred (500) feet of a protected district boundary shall be effectively screened by a solid fence or wall. The height of such fence or wall shall be at least six (6) feet and shall not exceed ten (10) feet. Such fence shall be surrounded by shrubbery or hedges as required by section 732-214(g). The storage of materials or products within the enclosure shall not exceed the height of the fence.

b. The outdoor display of boats, cemetery monuments, tombstones, mobile homes, recreational vehicles, trucks, and merchandise or products with similar and comparable characteristics offered for sale shall be permitted, provided:

1. Any major repair and service shall be conducted within enclosed buildings; and

2. Outdoor display of products for sale shall be located not less than twenty (20) feet from the proposed right-of-way line and shall not be located in any required yards, parking areas or loading areas; provided also that this twenty-foot wide strip of the required front yard, paralleling and measured from the right-of-way line, and extending the full length thereof (except for walks and driveways) shall be landscaped in grass, shrubbery, trees and a solid hedge, or in combination with other suitable ground cover materials, in accordance with section 732-214(g); and

3. Bumper or wheel guards shall be provided along the perimeter of any vehicular display area; and
  4. Display areas shall be of concrete, asphaltic pavement, brick, flagstone or comparable material and shall be maintained in good condition; and
  5. Outdoor displays shall be maintained in an orderly manner.
- c. Any lighting used to illuminate any outdoor areas where any service or activity is conducted shall comply with the requirements of section 732-211(h).

Further, it shall be prohibited to:

1. Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; and
  2. Make use of attention attracting lighting from any apparatus of any type similar to that used by emergency vehicles.
- d. Trash containers shall be permitted, provided the container(s) exceeding six (6) cubic feet shall:
1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
  2. Be located behind the established front building line; and
  3. Not be located within a required yard or required transitional yard; and
- e. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).
- f. Vending machines shall be permitted, provided the machine(s) shall:
1. Be located within a building; or
  2. Be located on the exterior of a building abutting its exterior wall; and
  3. Not be located within a required yard or required transitional yard; and
- g. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:
1. Provide adequate outdoor convenience trash containers; and
  2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
  3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street

(see section 732-217, Diagram J); and

4. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.

h. Fast food or drive-through restaurants, and such establishments where food may be carried out shall:

1. Provide adequate outdoor convenience trash containers; and
2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).

i. Any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any:

1. Substance abuse treatment facility;
2. Tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores).

The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject substance abuse treatment facility, tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.

j. Gasoline service stations, convenience markets, service centers or facility functions, service operation and sales shall be subject to the following regulations:

1. Gasoline service stations, convenience markets, service centers or functions, service operation and sales shall not include the following: any outdoor operations (other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to such dispensing or installation).
2. The exterior display, sale or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided, however, that the provisions of section 732-208(b)(1)a. and b. are maintained.
3. Any display, sale or rental of motor vehicles or trailers

conducted in association with a service station shall be located in a specific area, not located in or in any way conflicting or interfering with pedestrian walks, off-street parking areas, driveways, required yards, required transitional yards, or public rights-of-way.

4. There shall be no exterior displays which restrict traffic visibility in any way or which impede the movement of any vehicles on the service station or center driveways or public rights-of-way, or located in or in any way conflicting or interfering with walks, off-street parking areas or required landscaping yards. All exterior displays shall be maintained in an orderly manner.

5. Any major servicing or motor or body repair work shall be conducted within an enclosed structure.

k. Car wash establishments shall:

1. Be subject to the requirements of section 732-213, drive-through off-street stacking space regulations; and

2. Not conduct any drying, cleaning, polishing, dispensing of gasoline or other comparable operation within any required yard or required transitional yard; and

3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and

4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.

5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

l. Substance abuse treatment facilities shall:

1. Not be located within five hundred (500) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district (see section 732-217, Diagram J); and

2. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.

m. Accessory uses or structures shall:



1. Have a total gross floor area which does not exceed fifty (50) percent of the total gross floor area of the primary uses or structures; and
  2. Not erect or maintain exterior signs announcing the accessory uses or structures.
- (2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.
- (3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.
- (4) *Required minimum side yards, minimum side setback.* A side setback and landscaped side yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-208(b)(6) or (8).
- (5) *Required minimum rear yards, minimum rear setback.* A rear setback and landscaped rear yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-208(b)(6) or (8).
- (6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-208(b)(7) or (8) in addition to the following requirements:
- a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c. or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.
  - b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than forty (40) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.
- Exceptions:
1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yard and setback shall be not less than twenty (20) feet.
  2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.
  3. The transitional yard requirements of section 732-208(b)(6) shall not apply in those instances where commercial or industrial

use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g), and shall remain as open space free from structures except where expressly permitted by this chapter:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. May include driveways, provided they are not located within forty (40) feet of a side lot line abutting a protected district; and
3. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required side and rear yards:*

1. May include pedestrian walks, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas and interior access drives.

c. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and
2. Shall not include parking areas, interior access drives, or outdoor display or storage areas, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Thirty-five (35) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however:

- a. Along any required front, side or rear transitional yard, as specified in section 732-208(b)(6), the minimum required setback for that portion of the building exceeding eighteen (18) feet shall be increased by one (1) foot for each one (1) foot, or part thereof, of building or structural height above eighteen (18) feet (see section 732-217, Diagram I).
- b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code. Additional regulations specific to adult entertainment businesses are found in section 732-216.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in

stacking space regulations of section 732-213.

(13) *Additional developments requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

(14) *Special regulations, adult entertainment business.* In addition to the requirements of this section, adult entertainment businesses shall be in accordance with section 732-216, special regulations - adult entertainment business.

### **Sec. 732-209. C-ID Commercial-Industrial District.**

*Statement of purpose:* The C-ID District is designed to accommodate the commercial/industrial type of land uses which by the nature of operation or appearance are more compatible with industrial than retail commercial activities. These uses generally are not visited by customers, but rather involve service operations from headquarters with some on-site fabrication of parts and, in some cases, substantial open air storage of large service vehicles, raw materials or finished products. Because of the character and intensity of these uses, this district should be appropriately located in close association with high intensity commercial uses or industrial uses and should never be located adjacent to protected districts.

(a) *Permitted C-ID uses.* Permitted uses in the C-ID District shall conform to the general commercial district regulations and performance of section 732-200 and the C-ID District development standards of section 732-209(b). The following uses shall be permitted in the C-ID District:

- (1) Auctioneering service.
- (2) Automobile storage.
- (3) Automobile (car) wash, subject to the provisions of section 732-209(b)(1).
- (4) Boat dealer.
- (5) Building materials.
- (6) Bus or truck:  
Maintenance garage  
Rustproofing  
Washes
- (7) Convenience market, subject to the provisions of section 732-209(b)(1).
- (8) Crating and packaging service.
- (9) Contractors, including:  
Air conditioner  
Awning  
Building/construction  
Carpentry work  
Concrete  
Decorating

Electrical  
Excavation  
Extermination/disinfection  
Fence  
Flooring  
Heating  
Home remodeling  
Landscaping (wholesale or retail)  
Masonry/stonework/tile/setting  
Painting  
Pest control  
Plastering/drywall (installation)  
Plumbing  
Pool (installation)  
Roofing  
Septic system  
Sheet metal  
Siding  
Sign  
Storm door  
Water softener service  
Window  
Demolition  
(10) Distributor.  
(11) Equipment rental or sales:  
Heavy/construction;b2Light  
Tool  
(12) Farm equipment, new or used; sales or service.  
(13) Fireworks display service.  
(14) Fuel dealers (other than gasoline service station or convenience market).  
(15) Gasoline service station, subject to the provisions of section 732-209(b)  
(1).  
(16) Industrial laundry or dry cleaning plant.  
(17) Linen supply.  
(18) Mini-warehouse.  
(19) Photofinishing laboratory.

- (20) Recreational vehicle dealer (sales or rental, including mobile home and popup camper).
- (21) Repair service (any type).
- (22) Storage and transfer establishments.
- (23) Taxidermy.
- (24) Temporary seasonal retail sales, subject to the provisions of section 732-214(f).
- (25) Upholstery.
- (26) Warehouse.
- (27) Wholesaler.
- (28) Other uses similar and comparable in character to the above permitted uses.
- (29) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-209(b)(1)i.
- (30) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-ID development standards.*

(1) *Use.*

a. Merchandise and products for sale; storage of materials, products, machinery and equipment; and operations incidental to the primary use may be located outdoors. Provided, however, outdoor storage and operations shall be effectively screened from public view by a solid fence or wall not less than six (6) feet in height constructed on or behind the front building setback line.

Further provided, however, all storage of materials or products within five hundred (500) feet of a protected district boundary shall be effectively screened by a solid fence or wall. The height of such fence or wall shall be at least six (6) feet and shall be surrounded by shrubbery, trees or hedge subject to the requirements of section 732-214(g). The storage of materials or products within the enclosure shall not exceed the height of the fence.

In addition, in no case shall the total area of outside operations and storage exceed fifty (50) percent of the total gross floor area of enclosed structures and buildings.

b. Any major repair and service shall be conducted within enclosed buildings.

c. Any lighting used to illuminate any outdoor areas where any service or activity is conducted shall comply with the requirements of section 732-211(h). Further, it shall be prohibited to:

- 1. Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; or

2. Make use of attention attracting lighting from any apparatus of any type similar to that used by emergency vehicles.
- d. Trash containers shall be permitted, provided the container(s) exceeding six (6) cubic feet shall:
  1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
  2. Be located behind the established front building line; and
  3. Not be located within a required yard or required transitional yard; and
- e. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).
- f. Vending machines shall be permitted, provided the machine(s) shall:
  1. Be located within a building; or
  2. Be located on the exterior of a building abutting its exterior wall; and
  3. Not be located within a required yard or required transitional yard; and
- g. Gasoline service stations, convenience markets, service centers or facility functions, service operation and sales shall be subject to the following regulations:
  1. Gasoline service stations, convenience markets, service centers or functions, service operation and sales shall not include the following: any outdoor operations (other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to such dispensing or installation).
  2. The exterior display, sale or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided, however, that the provisions of section 732-209(b)(1)a. and b. are maintained.
  3. Any display, sale or rental of motor vehicles or trailers conducted in association with a service station shall be located in a specific area, not located in or in any way conflicting or interfering with pedestrian walks, off-street parking areas, driveways, required yards, required transitional yards, or public rights-of-way.
  4. There shall be no exterior displays which restrict traffic visibility in any way or which impede the movement of any vehicles on the service station or center driveways or public rights-of-way, or located in or in any way conflicting or interfering with walks, off-street parking areas or required landscaping yards. All exterior displays shall be maintained in an orderly manner.
  5. Any major servicing or motor or body repair work shall be conducted within an enclosed structure.

h. Car wash establishments shall:

1. Be subject to the requirements of section 732-213, drive-through off-street stacking space regulations; and
2. Not conduct any drying, cleaning, polishing, dispensing of gasoline or other comparable operation within any required yard or required transitional yard; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and
4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.
5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

i. Accessory uses or structures shall:

1. Have a total gross floor area which does not exceed fifty (50) percent of the total gross floor area of the primary uses or structures; and
2. Not erect or maintain exterior signs announcing the accessory uses or structures.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* A side setback and landscaped side yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-209(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* A rear setback and landscaped rear yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-209(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-209(b)(7) or (8) in addition to the following requirements:

- a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback

of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c. or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than forty (40) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yard and setback shall be not less than twenty (20) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-209(b)(6) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although zoned as a protected district.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g), and shall remain as open space free from structures except where expressly permitted by this chapter:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. May include driveways, provided they are not located within forty (40) feet of a side lot line abutting a protected district; and

3. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required side and rear yards:*

1. May include pedestrian walks, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas and interior access drives.

c. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas, interior access drives, or



outdoor display or storage areas, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* Thirty-five (35) feet, subject to the exceptions noted in section 732-200(a)(5). Provided, however:

a. Along any required front, side or rear transitional yard, as specified in section 732-209(b)(6), the minimum required setback for that portion of the building exceeding eighteen (18) feet shall be increased by one (1) foot for each one (1) foot, or part thereof, of building or structural height above eighteen (18) feet (see section 732-217, Diagram I).

b. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code. Additional regulations specific to adult entertainment businesses are found in section 732-216.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional development requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

(14) *Special regulations, adult entertainment business.* In addition to the requirements of this section, adult entertainment businesses shall be in accordance with section 732-216, special regulations - adult entertainment business.

### **Sec. 732-210. C-S Special Commercial District regulations.**

*Statement of purpose:* The Special Commercial District (C-S) is established for the following purposes:

(1) To encourage:

- a. A more creative approach in land planning.
- b. Superior site and structural design and development.
- c. An efficient and desirable use of open space.

(2) To provide for a use of land with high functional value.

(3) To assure compatibility of land uses, both within the C-S District and with adjacent areas.

(4) To permit special consideration of property with outstanding features, including, but not limited to, historical, architectural or social significance, unusual topography, landscape amenities, and other special land characteristics.

(5) To provide maximum adaptability and flexibility in zoning and development

controls to meet the changing and diverse needs of the metropolitan area.

The C-S District is designed to permit, within a single zoning district, multi-use commercial complexes or land use combinations of commercial and noncommercial uses, or single-use commercial projects. The primary objective of this district is to encourage development which achieves a high degree of excellence in planning, design or function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The C-S District can include high-rise or low-rise developments, can be applied to large or small land areas appropriately located throughout the metropolitan area, and can be useful in areas of urban renewal or redevelopment.

Development site plans should incorporate and promote environmental considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife.

(a) *Permitted C-S District uses.* All land uses within the C-S Districts shall be limited to the use or uses specified in the applicable rezoning petition or ordinance redistricting and zoning the particular land to the C-S District. A site and development plan for a proposed C-S District shall be filed with the zoning petition and approved by the Metropolitan Development Commission. The Commission may approve, amend or disapprove the plan and may impose any reasonable conditions upon its approval. If such plan submitted is a preliminary rather than final plan, the Commission's approval shall be conditioned upon the approval, by the Administrator, of a final site and development plan, in total or in phases. Such final plan approval by the Administrator shall be conditioned upon the Administrator's findings that the final plan is consistent and in substantial conformity with the preliminary plan, as approved by the Metropolitan Development Commission. All development within the C-S Districts shall be subject to any further standards, restrictions or requirements specified in such rezoning petition or ordinance and commitments filed, made or presented in support of such rezoning petition.

(1) By example, the following uses may be appropriate in the C-S District:

- a. Planned public and semi-public structures and uses, parks and open space;
- b. Commercial office-multifamily residential complex (providing the residential component shall be subordinate to the primary commercial use or uses);
- c. Regional, community or neighborhood shopping center-office-multifamily residential complex, hotels, motels or other multi-use planned complex (providing the residential component shall be subordinate to the primary commercial use or uses), or other appropriate uses and accessory facilities therefor;
- d. Office-commercial-industrial research and development park or complex or other commercial-industrial use combination (providing the industrial use is subordinate to the primary commercial use or uses), and accessory facilities therefor.
- e. Assisted-living facility;
- f. Any other appropriate planned land use, complex or combination of land uses as designated and specified in the petition or ordinance zoning land to the C-S District.

(2) Accessory uses and structures, subordinate, appropriate and incidental to

the above permitted primary uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-210(b)(1).

(3) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

(b) *C-S District development standards.*

(1) *Use.*

a. All C-S District uses shall:

1. Be so planned, designed, constructed and maintained as to create a superior land development, in conformity with the Comprehensive Plan of Marion County, Indiana; and

2. Create and maintain a desirable, efficient and economical use of land with high functional value and compatibility of land uses, within the C-S District and with adjacent uses; and

3. Provide sufficient and well-designed access, parking and loading areas; and

4. Provide traffic control and street plan integration with existing and planned public streets and interior access roads; and

5. Provide adequately for sanitation, drainage and public utilities; and

6. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan for Marion County, Indiana.

b. On-site vehicular circulation and traffic patterns for all drive-through facilities shall be subject to the requirements of section 732-213.

c. Trash containers shall be permitted, provided the container(s) exceeding six (6) cubic feet shall:

1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and

2. Be located behind the established front building line; and

3. Not be located within a required yard or required transitional yard; and

4. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).

d. Vending machines shall be permitted, provided the machine(s) shall:

1. Be located within a building; or

2. Be located on the exterior of a building abutting its exterior wall; and

3. Not be located within a required yard or required transitional yard; and
- e. Taverns, package liquor stores, fast food or drive-through restaurants, and such establishments, where food or alcoholic beverages may be carried out, shall:
  1. Provide adequate outdoor convenience trash containers; and
  2. Not provide outdoor tables or seats; and
  3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).
- f. Gasoline service station, lubricating and oil change services, convenience market, service centers or functions shall:
  1. Not include the following:
    - i. Any outdoor operations (other than the dispensing or installation of gasoline, oil, antifreeze, headlights, wiper blades and other similar products and the performance of minor services for customers as related to such dispensing or installation);
    - ii. The sale, rental, display or storage of vehicles, trailers, tractors, machinery or other similar equipment;
    - iii. Commercial parking of vehicles;
    - iv. Major servicing or motor or body repair such as, but not limited to, body or fender work, motor overhaul, major transmission repair, auto glass work, tire recapping, muffler repair or installation, auto body painting or trim shops; or
    - v. Dismantling or wrecking of any vehicles, or the storage of inoperable, damaged or wrecked vehicles.
  2. The exterior display, sales or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided such display or storage is:
    - i. Accessory to the primary use; and
    - ii. Located immediately adjacent to the primary structure, but not within any required yard or required transitional yard; and
    - iii. Not more than two hundred (200) square feet in total area; and
    - iv. Maintained in an orderly manner; and
    - v. Not illuminated.
  3. A maximum of three (3) accessory indoor service bays may be provided for minor automotive servicing and repair. "Service

bay" is defined in section 732-217.

g. Car wash establishments shall:

1. Be subject to the drive-through off-street stacking space regulations of section 732-213; and
2. Not conduct any drying, cleaning, polishing, dispensing of gasoline, or other comparable operation within any required yard or required transitional yard; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).
4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.
5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least fifty (50) feet of frontage on a street right-of-way (unless subject to section 732-200(a)(6), lot frontage exception), and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of section 732-214(a) shall be provided along all street right-of-way lines, unless subject to the established setback provisions of section 732-200(a)(3)b. or c.

(4) *Required minimum side yards, minimum side setback.* A side setback and landscaped side yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-210(b)(6) or (8).

(5) *Required minimum rear yards, minimum rear setback.* A rear setback and landscaped rear yard of not less than ten (10) feet in depth, measured from and paralleling the lot line, shall be provided unless subject to the additional transitional yard requirements of section 732-210(b)(6) or (8).

(6) *Required transitional yards, minimum setbacks.* Minimum front, side and rear transitional yards and setbacks. Yards fronting upon or abutting a protected district are subject to the requirements of section 732-210(b)(7) or (8) in addition to the following requirements:

- a. Where a front yard abuts a street on the opposite side of which is a protected district, a minimum required front transitional yard and setback of not less than twenty (20) feet in depth, measured from and paralleling the proposed right-of-way line of the street, shall be provided unless subject to the regulations of section 732-200(a)(3)b. or c. or section 732-214(a). In the case where a proposed right-of-way does not exist or the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

b. Where a side or rear lot line abuts a lot line in an adjacent protected district, a required side or rear transitional yard and setback of not less than fifteen (15) feet in depth, measured from and paralleling the lot line, shall be provided along such side or rear lot line.

Exceptions:

1. Where a dedicated alley separates such side or rear lot line from the protected district, such required side or rear transitional yard and setback shall be not less than ten (10) feet.

2. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the side or rear transitional yards may be reduced by one-half ( 1/2), but to not less individually than six-foot planting areas, provided a six-foot opaque wooden fence or solid wall is erected.

3. The transitional yard requirements of section 732-210(b)(6) shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such adjoining property or abutting frontage property, although residentially zoned.

(7) *Use of required yards and required transitional yards.* All required yards and required transitional yards shall be landscaped with grass, and shrubbery, trees or hedge, or in combination with other suitable ground cover materials, subject to the requirements of section 732-214(g), and shall remain as open space free from structures except where expressly permitted by this chapter:

a. *Required front yards:*

1. May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

b. *Required side and rear yards:*

1. May include pedestrian walks, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. May include interior access drives and parking areas, unless subject to the transitional yard requirements of section 732-210(b) (6) or (8), provided a six-foot wide landscaped strip of the required yard, adjacent to the lot line while paralleling and extending the full length of such lot line, except when interrupted by interior access driveway(s), shall be maintained.

c. *Required front, side or rear transitional yards:*

1. May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

2. Shall not include parking areas or interior access drives, unless subject to the provisions of section 732-214(a).

(8) *Maximum height of buildings and structures.* There shall be no height limitation for buildings and structures provided that:

a. Minimum required front, side and rear yard setbacks shall be increased by one (1) foot for each three (3) additional feet, or part thereof, of building or structural height above thirty-five (35) feet to a maximum front, side or rear building setback requirement of thirty (30) feet; and

b. Minimum required setback along any required front, side or rear transitional yard as specified in section 732-202(b)(6) shall be increased by one (1) foot for each one (1) foot, or part thereof, of building or structural height above thirty-five (35) feet to a maximum front, side or rear building setback requirement of fifty (50) feet (see section 732-217, Diagram I).

c. The height of signs and sign structures shall comply with Chapter 734 of this Code.

(9) *Signs.* Signs and sign structures shall comply with Chapter 734 of this Code.

(10) *Off-street parking.* Off-street parking facilities shall be provided in accordance with the off-street parking regulations of section 732-211.

(11) *Off-street loading.* Off-street loading facilities shall be provided in accordance with the off-street loading regulations of section 732-212.

(12) *Drive-through off-street stacking space requirements.* Off-street stacking spaces shall be provided in accordance with the drive-through or drive-in stacking space regulations of section 732-213.

(13) *Additional developments requirements.* Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses, or screening, landscaping and grounds maintenance, shall be in accordance with section 732-214.

### **Sec. 732-211. Off-street parking regulations.**

All off-street parking areas for motor vehicles accessory to the uses in the commercial districts shall be provided in accordance with the following regulations. However, commercial parking facilities, including attendant parking, shall be subject to the provisions of Chapter 931 of this Code, and shall not be subject to the development standards of this chapter other than the minimum setback requirements of the applicable district.

(a) *Application of regulations.*

(1) *Buildings, structures, uses established hereafter - exception for permits previously issued:* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking facilities shall be provided in accordance with the regulations of this section. However, where improvement location and building permits have been issued prior to the effective date of this chapter, and provided that construction has begun within six (6) months of such effective date and diligently prosecuted to completion (but such time period not to exceed two (2) years after the issuance of such building permit), parking facilities in the amounts required for issuance of such permits may be provided in lieu of any different amount required by the off-street parking regulations of this chapter.

(2) *Buildings, structures, uses existing or hereafter established - increased intensity of use:* When the intensity of use of any legally

established building, structure or premises (existing on the effective date this chapter or hereafter established) is increased resulting in a net increase of gross floor area or any other unit of measurement specified herein for determining required parking areas, parking spaces and any other facilities as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected, or use lawfully established, prior to the effective date of this chapter shall be required to provide such additional parking spaces or areas, unless and until the aggregate increase in any unit of measurement specified herein for determining required parking spaces causes an increase in the required number of parking spaces that equals fifteen (15) percent or more of the number of parking spaces existing on the effective date of this chapter, in which event parking spaces and areas as required herein shall be provided for the total increase.

(3) *Change of use:* Whenever the type of use of a building, structure or premises is hereafter changed to a new type of use permitted by this chapter, parking spaces and areas shall be provided as required by the provisions of this chapter for such new type of use, subject to the exception noted in section 732-211(a)(2).

(4) *Existing parking areas:* Required accessory off-street parking areas in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirements for such use as would be required for such use as a new use of a building, structure or premises under the provisions of this chapter.

(5) *New or expanded parking areas:* Nothing in this chapter shall prevent the establishment of, or expansion of the amount of, parking areas to serve any existing use of land or building, provided that all other regulations herein governing the location, design, landscaping, construction and operation of such areas shall be adhered to.

(b) *Location.*

(1) Accessory off-street parking areas shall be provided on the same lot as the building or use served, or as provided in section 732-211(c) below, and shall not be located within the public right-of-way.

(2) Accessory parking areas shall be located in a commercial district which permits the primary use or the I-3, I-4, and I-5 Industrial Suburban and Urban Districts.

(3) Any accessory parking area located in a different district than that of the primary use must comply with the development standards for the district in which the parking area is located.

(c) *Common or combined off-street accessory parking areas.* Common or combined accessory off-street parking areas may be provided to serve two (2) or more primary buildings or uses, provided such common or combined accessory off-street parking areas shall:

(1) Be so planned, designed, constructed and maintained as to create a desirable, efficient and well planned off-street parking area with functional and aesthetic value, attractiveness and compatibility with adjacent land uses, and consistent with the character of the district within which it is located.

(2) Be located within five hundred (500) feet of the primary uses



served, measured from the nearest point of the parking area boundary to the primary use served.

(3) At all times have the minimum total number of spaces that is equal to the sum of the minimum required parking spaces for the use (if freestanding), or integrated center (see Table 2.10-A, No. 28.). No parking space for one (1) use shall be included in the calculation of parking space requirements for any other use.

(4) File a site and development plan for any common or combined parking area(s) with the division of planning for approval by the Administrator prior to the issuance of an Improvement Location Permit. Such site and development plan shall indicate:

- a. Adjacent streets, alleys and lots;
- b. Uses to be served, including the location, use (e.g., employee, customer, etc.) and number of parking spaces for each such use as required by section 732-211(k) hereof;
- c. Access drives, driveways, interior access driveways and acceleration/deceleration lanes;
- d. The parking area layout, including parking areas, parking spaces, total number of parking spaces and dimensions thereof;
- e. Distances to the primary uses served (see section 732-211 (c)(2) for distance measurement);
- f. All landscaping and screening, walls and fences; proposed lighting, if any; and type of paving proposed;
- g. Location of signs;
- h. Location and type of parking space barriers or curbing, if any; and
- i. All other requirements of Chapter 730, Article III.

Such site and development plan shall demonstrate compliance with all applicable standards of this chapter. Such site and development plan shall be amended and resubmitted for Administrator's approval to indicate any change or other modification of uses served as may be required by section 732-211(a)(2) or (3) or number of parking spaces provided therefor, prior to obtaining a new Improvement Location Permit.

Common or combined off-street accessory parking area shall be developed, maintained and used only in accordance with such approved site and development plan and all other requirements of this chapter.

(d) *Minimum parking lot and parking space dimensions.*

(1) The interior access drives, interior access driveways, drives, driveways, entrances, exits, aisles, bays and traffic circulation for parking lots and parking garages shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the division of planning and is hereby incorporated by reference and made a part

hereof); except that minimum parking space (or stall) dimensions shall be as set forth below.

(2) Each off-street parking space shall have, regardless of angle of parking, a usable parking space dimension measuring not less than nine (9) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length; provided, however, that the total usable parking space area shall be, in no instance, less than one hundred eighty (180) square feet in total area.

*Exceptions:*

a. All required parking spaces for any use allowing shopping carts to be removed from the interior of the establishment (i.e., grocery store) shall have a usable parking space dimension measuring not less than ten (10) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length; provided, however, that the total usable parking space area shall be at least one hundred eighty (180) square feet. The required parking spaces for such uses shall be located within five hundred (500) feet of the front entrance of the establishment.

b. All parking spaces reserved for the use of physically handicapped persons shall have a usable parking space dimension measuring not less than thirteen (13) feet in width (measured perpendicularly from the sides of the parking space) and not less than twenty (20) feet in length (see also section 732-211(l), required parking spaces for the disabled).

(e) *Access to and from parking areas.*

(1) Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

(2) All off-street parking spaces or areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access. Off-street parking spaces and areas shall be designed and located so that vehicles shall not back from or into a public street or adjoining property.

(f) *Use of parking areas.*

(1) The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or material. The parking area shall not be used for the storage of any commercial or inoperable vehicles.

(2) Buildings or structures for guards, attendants or watchmen shall be permitted; however, any such structure shall not occupy a required off-street parking space(s) and shall comply with all setback requirements.

(3) Loading spaces and maneuvering area, as required in section 732-212, shall not constitute a required off-street parking space; nor shall any off-street parking area be used as a loading space or area.

(g) *Surface of parking area.*

(1) Off-street parking spaces may be open to the sky, covered, or

enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any other building or structure and subject to all use and development standards requirements of the applicable commercial district in addition to the requirements contained herein.

(2) All off-street parking areas, and the access to and from such areas, shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one (1) year after the commencement of the use for which the parking areas is provided, where ground or weather conditions are not immediately suitable for permanent surfacing as specified above.

(3) The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto sidewalks.

(4) The parking area(s), where abutting a required landscaped yard or area, shall be designed and constructed in such a manner that no part of any parked vehicle shall extend beyond the boundary of the established parking area into any minimum required landscaped yard or area or onto adjoining property.

(h) *Marking of parking spaces.* All parking spaces shall be marked by durable painted lines at least four-inches wide and extending the length of the space or by curbs or other means to indicate individual spaces. Signs or markers located on the pavement surface within a parking lot may be used as necessary to ensure efficient and safe traffic operation of the lot.

(i) *Lighting of parking area.*

(1) When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.

(2) In applying exterior lighting, equipment shall be of an appropriate type and be so located, shielded and directed that the distribution of light is confined to the area to be lighted.

(3) Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

(4) Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal footcandles (as specified in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the Division of Planning of the Department of Metropolitan Development and is hereby incorporated by reference and made a part hereof).

(j) *Landscaping.* All parking areas in excess of one hundred (100) spaces shall be landscaped in accordance with section 732-214(g)(3) (additional landscaping requirements - interior of parking lots).

(k) *Amount of parking spaces required.*

(1) Off-street parking spaces shall be provided and maintained for uses in the commercial district in accordance with the minimum requirement set forth in Table 2.10-A.

(2) When a computation of required parking spaces results in a fraction of one-half ( 1/2) or greater, the number of required parking spaces shall be rounded up to the next whole number.

**TABLE 2.10-A MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED BY USE**

TABLE INSET:

Use	Minimum parking requirement
1. Any amusement establishments (commercial, recreational) involving the assembling of persons (unless otherwise specified in this table):	
a. Indoor	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
b. Outdoor	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each four hundred (400) square feet of site area accessible to the public, exclusive of the parking area.
2. Assisted-living facility	Total car ratio (TCR) - assisted-living facilities: 0.500. In addition, one (1) visitor parking space shall be provided per six (6) dwelling units; plus one (1) parking space per employee on duty during the peak work shift.
3. Auto, truck or motorcycle sales or repair:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus one (1) space for each two hundred (200) square feet of interior sales and display area, plus one (1) space for each seven thousand (7,000) square feet of outdoor display area.
4. Banking: bank, savings and loan, credit union	
a. Combined drive-through and walk-in facilities	One (1) parking space for each two hundred fifty (250) square feet of gross floor area. (Also subject to the drive-through requirements of section 732-213).
b. Drive-through facility only	One (1) parking space for each employee per largest work shift, plus a minimum of three (3) additional parking spaces. (Also subject to the drive-through requirements of section 732-213).
c. Walk-in facility only	One (1) parking space for each two hundred (200) square feet of gross floor area.
5. Bowling alleys:	a. Four (4) parking spaces for each alley/lane.
	b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the bowling alley).
6. Churches/synagogues, auditoriums, assembly halls, recital halls:	One (1) parking space for each four seats at maximum calculated capacity.

7. Community centers, museums, civic clubs, philanthropic and eleemosynary institutions:	One (1) parking space for each four hundred (400) square feet of gross floor area.
8. Convenience market	One (1) parking space for each two hundred eighty-five (285) square feet of gross floor area. Parking spaces at gasoline pumps may be included in the calculation of required parking.
9. Day nurseries, day care centers, kindergartens, nursery schools:	One (1) parking space for each employee per largest work shift, plus one (1) parking space for each five hundred (500) square feet of gross floor area.
10. Fire station:	One (1) parking space for each two (2) employees on the premises during the largest work shift, plus a minimum of three (3) additional parking spaces.
11. Furniture/floor or wall covering store	One (1) parking space for each four hundred (400) square feet of gross floor area.
12. Gasoline service stations, tire and auto service center, other auto service functions:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus three (3) customer spaces, plus one (1) space for each three hundred (300) square feet of gross floor area devoted to retail sales.
13. Gasoline service station/convenience market	Same as (8) convenience market.
14. Grocery store/supermarket	One (1) parking space for each one hundred fifty (150) square feet of gross floor area.
15. Hardware/paint/home improvement store	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each one thousand (1,000) square feet of the facility devoted to outside operations or storage, exclusive of the parking area.
16. Health spa/sports club	a. One (1) parking space for each two hundred (200) square feet of gross floor area.
	b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the health spa or sports club, such as dining areas, restaurants, night clubs, retail stores and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the health spa or sports club).
17. Hotels, motels:	a. One (1) parking space for each rental sleeping unit.
	b. If, in addition to sleeping units, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided. (Calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel).
18. Library	One (1) parking space for each four hundred (400) square feet of gross floor area.
19. Medical, dental, optometrists clinics/offices:	One (1) parking space for each two hundred (200) square feet of gross floor area.
	Three (3) parking spaces for each office, plus one (1) parking space per each

20. Mini-warehouses	employee based on the largest work shift, plus one (1) parking space per resident/manager, plus one (1) parking space for each thirty (30) storage units. Required off-street parking spaces shall not be utilized as rental or leased spaces.
21. Miniature golf	Four (4) parking spaces for each golf hole, plus one (1) parking space per each employee based on the largest work shift, plus one (1) space per each one hundred (100) square feet devoted to accessory retail or amusement establishments.
22. Mortuary, funeral service, crematories	One (1) parking space for each fifty (50) square feet of floor area in parlors and assembly rooms.
23. Nursing and convalescent homes, homes for the aged, sanitariums, rehabilitation centers	One (1) parking space for each three (3) patient beds, plus one (1) parking space for each two (2) employees and each two (2) staff doctors on the premises during the largest work shift.
24. Office commercial use, general: (To include, but not be limited to business, professional office, post office, office park, research center)	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross floor area.
25. Racquetball/tennis courts/club facilities	One (1) parking space per employee, plus four (4) parking spaces per game court, plus one (1) parking space for each two hundred (200) square feet of the remaining floor area in the building devoted to retail activities.
26. Restaurant:	
a. Family	One (1) parking space per employee per largest work shift plus one (1) parking space for each four (4) customer seats.
b. Fast food, with or without drive-through	One (1) parking space per employee per largest work shift plus one (1) parking space for each three (3) customer seats. Provided, however, in no case shall any such use provide less than five (5) parking spaces (also subject to the drive-through requirements of section 732-213).
c. Fast food, drive-through only (no seating)	One (1) parking space per employee per largest work shift plus a minimum of three (3) additional parking spaces (also subject to the drive-through requirements of section 732-213).
27. Taverns and night clubs	One (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross floor area.
28. Retail or service commercial uses - individual, freestanding uses: including but not limited to: Bakeries; drugstores; beauty and barber shops; package liquor stores; laundromats, photo studios; jewelry, gift, appliance and similar stores; personal service shops	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required for any individual, freestanding retail or service commercial use unless listed separately in this section, in which case the parking requirement noted for that specific use shall be utilized. Provided, however, that in no case shall any individual use provide less than five (5) parking spaces.
29. Retail or service commercial uses - integrated centers (as defined in section 732-217)	a. If the total gross leasable area of an integrated center is less than four hundred thousand (400,000) square feet, four (4) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required;
	b. If the total gross leasable area of an integrated center is greater than four hundred thousand (400,000) square feet, but less than six hundred thousand (600,000) square feet, four and one-half (4.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.

	<p>c. If the total gross leasable area of an integrated center is greater than six hundred thousand (600,000) square feet, five (5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>Provided, however:</p> <p>(1) In no case shall any individual use provide less than five (5) parking spaces; and</p> <p>(2) The following individual uses: grocery store/supermarket; theatres - motion picture or legitimate; bowling alley; or night club, shall provide parking spaces as required for the individual use by this section and such calculation shall be separate from the calculation of the gross leasable area calculation of the integrated center.</p>
30. Roller/ice skating rink	One (1) parking space for each two hundred (200) square feet of gross floor area in the building.
31. Schools: business, technical, trade, and vocational	One (1) parking space for each one hundred (100) square feet of gross floor area in the building, or one (1) parking space per each twenty-five (25) square feet of classrooms, whichever provides the greatest number of spaces.
32. Theatres: motion picture or legitimate	One (1) parking space for each three (3) seats.
33. All uses permitted in the C-ID Commercial-Industrial District:	One (1) parking space for each two (2) employees per largest work shift, plus five (5) customer spaces. Any floor area in the establishment devoted to retail sales shall require additional customer parking spaces in the amount specified elsewhere in this section for the type of retail sales involved.
34. Uses not specified	For any commercial district use not specified above, specific requirements shall be determined by the Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria.

(l) *Required parking spaces for the disabled.* Every parking facility available to the public shall have parking spaces reserved for the use of physically handicapped persons, as defined in section 732-217, according to the following schedule:

TABLE INSET:

Total Required Number of Parking Spaces in Facility	Minimum Number of Reserved Spaces
0 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7

301 to 400	8
401 to 500	9
501 to 1000	Two (2) percent of the total number of parking spaces.
1000 and over	Twenty (20), plus one (1) for each one hundred (100) spaces over one thousand (1,000).

Parking spaces reserved for the use of the physically handicapped persons shall count towards the minimum number of off-street parking spaces required in section 732-211, Table 2.10-A.

The dimensions of parking spaces reserved for the use of physically handicapped persons shall be those noted in section 732-211(d)(2)b.

(m) *Parking reduction provision.* The Administrator may authorize reductions, beyond those available in section 732-211(c), up to ten (10) percent of the maximum number of parking spaces required for (a) use(s) which require four hundred (400) or more parking spaces, if access is provided to public transportation.

(G.O. 2, 2002, § 13)

### **Sec. 732-212. Off-street loading regulations.**

All off-street loading facilities accessory to uses in the commercial districts shall be provided and maintained in accordance with the following regulations.

(a) *Minimum loading area dimensions.*

(1) A required off-street loading space shall be at least twelve (12) feet in width by at least fifty-five (55) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.

(2) The interior access drives, interior access driveways, driveways, aisles, berths and vehicular circulation and maneuvering for loading areas shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the division of planning and is hereby incorporated by reference and made a part hereof).

(b) *Access to and from loading area.*

(1) Each required off-street loading space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such loading space.

(2) All off-street loading facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access.



(c) *Location and setback.*

(1) All required off-street loading spaces shall be located on the same lot as the use served, and shall be designed and located so that trucks shall not back from or into a public street or adjoining property.

(2) No open loading area or loading space shall be located in a required minimum front, side or rear yard or a required transitional yard.

(d) *Screening.* All vehicle loading spaces on any lot abutting a protected district or separated by a public right-of-way from a protected district shall be enclosed within a building or screened and landscaped in addition to the commercial district's regulations for screening and landscaping transitional yards. Such screening and landscaping shall be installed as required in section 732-214 (g).

(e) *Use of loading area.* Space allotted to off-street loading spaces and maneuvering area shall not be used to satisfy the off-street parking space requirements.

(f) *Surface of loading area.*

(1) Off-street loading spaces may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for loading, it shall be treated as any other structure and subject to all use and development standards of the applicable commercial districts in addition to these requirements contained herein.

(2) All loading areas shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a temporary period not to exceed one (1) year after commencement of the use for which the loading area is provided, where ground and weather conditions are not immediately suitable for permanent surfacing as specified above.

(3) The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto sidewalks.

(g) *Lighting of loading area.* When lighting facilities are used to illuminate a loading area, the lighting equipment shall be located, shielded and directed so that the lighting distribution is confined to the area to be lighted. Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

(h) *Amount of loading area required.* Off-street loading space shall be provided and maintained in accordance with the following minimum requirements:

(1) For each retail store, planned shopping center or commercial establishment, having an aggregate gross floor area of:

a. Under ten thousand (10,000) square feet: No loading space

b. Over ten thousand (10,000) square feet but not over twenty-five thousand (25,000) square feet: One (1) loading space

c. Over twenty-five thousand (25,000) square feet but not over sixty thousand (60,000) square feet: Two (2) loading spaces

d. Over sixty thousand (60,000) square feet but not over one hundred twenty thousand (120,000) square feet: Three (3) loading spaces

- e. Over one hundred twenty thousand (120,000) square feet but not over two hundred thousand (200,000) square feet: Four (4) loading spaces
  - f. Over two hundred thousand (200,000) square feet but not over two hundred ninety thousand (290,000) square feet: Five (5) loading spaces
  - g. For each additional ninety thousand (90,000) square feet exceeding two hundred ninety thousand (290,000) square feet or fraction thereof: One (1) additional loading space
- (2) For each auditorium, hotel, apartment, office building or similar use, having an aggregate gross floor area of:
- a. Under ten thousand (10,000) square feet: No loading space
  - b. Over ten thousand (10,000) square feet but not over forty thousand (40,000) square feet: One (1) loading space
  - c. For each additional sixty thousand (60,000) square feet exceeding forty thousand (40,000) square feet or fraction thereof: One (1) additional loading space
- (3) For any C-ID District use, having aggregate gross floor area of:
- a. Under forty thousand (40,000) square feet: One (1) loading space
  - b. Over forty thousand (40,000) square feet but not over one hundred thousand (100,000) square feet: Two (2) loading spaces
  - c. Over one hundred thousand (100,000) square feet but not over two hundred thousand (200,000) square feet: Three (3) loading spaces
  - d. For each additional two hundred thousand (200,000) square feet exceeding two hundred thousand (200,000) square feet or fraction thereof: One (1) additional loading space
- (4) For assisted-living facilities: Provide an off-street loading area for the delivery of goods and supplies for projects involving more than fifteen (15) units.
- (5) For any commercial district use not specified above, the off-street loading requirements for a specified use to which such use is most similar shall apply.

(G.O. 2, 2002, § 13)

### **Sec. 732-213. Drive-through off-street stacking space regulations.**

(a) *General provisions.* The purpose of off-street stacking space regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility which utilizes a drive-through service unit. Any use having a drive-through service unit shall provide the required off-street stacking area on-site to minimize off-site traffic congestion while waiting for service. Each drive-through service unit shall provide stacking spaces as follows:

- (1) Each stacking space shall be not less than eight and one-half (8 1/2) feet in

width and seventeen and one-half (17 1/2) feet in length, with additional spaces for necessary turning and maneuvering.

(2) The area required for stacking spaces shall be exclusive of and in addition to any required parking space, loading space, driveway, aisle and required yard, unless specifically noted.

(3) A parking space at any component of a drive-through service unit (window, menu board, order station, or service bay) shall be considered to be a stacking space.

(4) An area reserved for stacking spaces shall not double as a circulation driveway or maneuvering area.

(5) Sites with stacking spaces shall include an exclusive bypass aisle, driveway or other circulation area in the parking lot design to allow vehicles to bypass the stacking area.

(6) A drive-through service unit may project up to one (1) foot into the stacking area.

(7) A drive-through service unit shall not be permitted on the side or rear of a building, or within the side or rear yard of a building, which abuts a protected district unless the side or rear setback of each component of a service unit is located more than one hundred (100) feet from the protected district.

(8) Drive-through service units may contain more than one (1) component part. Service units may contain such components as menu board(s), pay windows, and food-service pickup windows. To determine the number of off-street stacking spaces located before a service unit, the final component of the service unit shall be used in determining the location of the required off-street stacking spaces. In the case of car washes, the final component of a service unit is the entrance to the car wash building itself.

(b) *Site plan submission.* All required off-street stacking spaces and circulation pattern(s) shall be demonstrated on the site plan that is submitted at the time of filing for an Improvement Location Permit. The submitted site plan shall also delineate:

(1) All existing and proposed points of ingress and egress, circulation and maneuvering areas, off-street parking and loading areas; and

(2) Separately tabulate the number of required off-street parking, loading, and stacking spaces in a conspicuous place on the plan for easy reference.

Prior to obtaining an Improvement Location Permit, the site plan shall be forwarded to the division of compliance for its review and comment.

(c) *Required stacking spaces.*

(1) *Bank (including ATM's):* Six (6) spaces before the final component of each service unit; one (1) space after each service unit.

(2) *Drive-in theatre:* Before the ticket service window or area, stacking space shall be equal to twenty (20) percent of the total off-street parking capacity of the theatre. The in-bound reservoir area shall not connect or conflict in any way with exit driveways.

(3) *Car washes:*

a. Self-service or hand wash: Three (3) spaces before the final component of each service unit; two (2) spaces at the exit of each unit.

b. Semi- or fully automatic: Twenty (20) spaces before the final

component of each service unit; six (6) spaces reserved for vacuuming or drying of automobiles may count in the exit stacking figure. Parking spaces not required for off-street parking spaces may be utilized for the stacking space calculation.

(4) *Restaurants:*

TABLE INSET:

Number of Drive-Through Service Units	Total Number of Stacking Spaces Required
One (1)	Six (6) spaces before the final component of the service unit; two (2) spaces at the exit of the unit.
Two (2)	Eight (8) spaces before the final component of each service unit; two (2) spaces at the exit of each unit.
For each additional drive-through service unit	Four (4) spaces before the final component of each additional service unit and one (1) space at the exit of each unit.

(5) All other facilities utilizing a drive-through service unit. Including, but not limited to laundry and dry cleaning stations, photo drop-off/pick-up stations, automobile oil change or lubrication facilities: Three (3) spaces before the final component of the service unit; one (1) space at the exit of each service unit.

(G.O. 2, 2002, § 13)

**Sec. 732-214. Special regulations.**

(a) *Minimum front setback lines and front yards.* Front setbacks, having a minimum depth in accordance with the following setback standards, shall be provided along all public and private street right-of-way lines, and the minimum required building setback lines shall be as follows:

(1) No part of any building shall be built closer to the proposed right-of-way lines of the following streets than:

TABLE INSET:

Ten (10) feet from the proposed right-of-way or seventy (70) feet from the center line, whichever is greater.	Expressway, freeway, primary arterial, parkway, secondary arterial (as designated on the Official Thoroughfare Plan for Marion County, Indiana)
Ten (10) feet from the proposed right-of-way.	Collector street, local street, marginal access street (including marginal access streets with a coinciding right-of-way boundary immediately paralleling either a federal interstate highway route or any thoroughfare), cul-de-sac or any private street.

Subject to the following:

a. Any required front transitional yard shall have a minimum depth of twenty (20) feet, rather than ten (10) feet. However, there shall be no transitional yard requirement for expressways, freeways or primary arterials, which shall only be required to provide the required front yard setback of ten (10) feet.

b. The required front yard and setback shall be located outside of and adjacent to the proposed right-of-way line of the street while paralleling and extending the full length of such right-of-way line, except when interrupted by driveway(s).

c. The uses of required front yards and required transitional yards shall be those permitted in the provisions of the use of required yards and required transitional yards sections of the applicable commercial zoning district.

d. Canopies, eaves, cornices or other laterally supported extensions may extend a maximum of four (4) feet into a required front yard.

e. In the case where a proposed right-of-way line does not exist, as determined by the Official Thoroughfare Plan for Marion County, Indiana, or where the existing right-of-way is greater, the existing right-of-way line shall be used for the setback measurement.

(2) No part of any structure, including parking areas, parking spaces, interior access drives, and interior access driveways, shall be built closer than twenty (20) feet to the right-of way line of a federal interstate highway route.

(3) Structures, including parking areas, parking spaces, interior access drives and interior access driveways may be located within the front setback in an area designated as proposed right-of-way under the following provisions:

a. *Streets not designated as a priority in the Official Thoroughfare Plan for Marion County, Indiana.* A required landscape strip shall be provided, measured from the existing right-of-way, and shall have a minimum depth of ten (10) feet. The required landscape strip shall be located outside of and adjacent to the existing right-of-way line of the street while paralleling and extending the full length of such right-of-way, except when interrupted by driveway(s).

b. *Streets designated as a priority in the Official Thoroughfare Plan for Marion County, Indiana.* A required landscape strip shall be provided, measured from the existing right-of-way, and shall have a minimum depth of ten (10) feet. The required landscape strip shall be located outside of and adjacent to the existing right-of-way line of the street while paralleling and extending the full length of such right-of-way line, except when interrupted by driveway(s).

In addition, sufficient off-street parking shall be provided on the site outside of the proposed right-of-way so that the applicable off-street parking requirements for the use(s) are met.

In addition, if the Department of Public Works would acquire the proposed right-of-way for thoroughfare development or expansion, the Department of Public Works shall have no obligation to pay for any structure located within the proposed right-of-way.

In the event of dedication of right-of-way as a result of rezoning or other methods for both nonpriority and priority streets, such dedication shall not alleviate the right to use the right-of-way in the manner provided above,

until such time as the Department of Public Works determines that the additional right-of-way is needed for widening.

(b) *Integrated shopping center or complex - plan requirements for Improvement Location Permit issuance:* Prior to Improvement Location Permit issuance for any building or structure within an integrated shopping center or complex, three (3) copies of the site plans and landscape plans for the entire integrated center shall be on file with the Department of Metropolitan Development.

(c) *Street requirements:*

(1) *Clear sight triangular area.* The following provisions shall apply to all streets, whether public or private: All landscape plantings, structural barriers, shrubs, trees, structures or other objects, temporary or permanent, shall permit completely unobstructed vision within a clear sight triangular area between the heights of two and one-half (2 1/2) and nine (9) feet above the crown of the streets, drives, or driveways. A clear sight triangular area shall be established as one (1) of the following (see section 732-217, Diagram E):

a. On a corner lot, the clear sight triangular area is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five (25) feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or

b. On a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the lot line coterminous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five (25) feet from the intersection of such lines; or

c. On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two (2) clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten (10) feet from the intersection of the street right-of-way line and driveway or alley lines extended.

(2) *Requirements for public streets.*

a. All public streets shall be dedicated to the public, accepted for public maintenance by the Department of Public Works, and improved and constructed in accordance with the standards required by the Department of Public Works Standards for Street and Bridge Design and Construction, or as approved by the director of the Department of Public Works.

b. The right-of-way of any streets within an integrated center which are indicated on the Official Thoroughfare Plan for Marion County, Indiana, or which has been required by zoning, variance, or platting commitment, condition or covenant to be developed as public streets, is to be constructed to specific standards based upon their proposed functional classification and shall be dedicated to the public, or the right-of-way thereof shall be reserved for the future.

(3) *Requirements for private streets, driveways, interior access driveways and interior access drives:*

a. All private streets, driveways, interior access driveways and interior

access drives shall meet the minimum standards for construction, materials or use in construction and design as specified by the "Standard Specifications," Indiana Department of Transportation (8-17-1-39), 1988 Edition, the Indiana Department of Transportation Supplemental Specifications, and the Indianapolis Department of Public Works (DPW) Standards for Street and Bridge Design and Construction. In the event DPW specifications conflict with the IDOT Standard Specifications, the most stringent specifications shall govern.

The "Standard Specifications" of the IDOT are incorporated into this chapter by reference. Two (2) copies of the "Standard Specifications" are on file and available for public inspection in the office of the division of planning.

Provided, however, that the standard specifications incorporated into this chapter shall be modified as follows:

Private interior streets, private interior access drives and private interior access driveways shall have a minimum width, including gutters, curbing, and off-street parallel parking spaces, if provided, of:

One-way, no parking: Twelve (12) feet

One-way, parallel parking on one (1) side of the street only: Twenty (20) feet

Two-way, no parking: Twenty (20) feet

Two-way, parallel parking on one (1) side of the street only: Twenty-seven (27) feet

Two-way, parallel parking on both sides of the street: Thirty-six (36) feet

b. Private streets, interior access drives and interior access driveways shall be privately maintained (not by governmental agencies) in good condition and free of chuckholes, standing water, weeds, dirt, trash and debris.

c. Interior access drives and driveways shall be designed and maintained with sufficient width to provide for the passage of emergency vehicles at all times.

d. Private streets, interior access drives and interior access driveways within any commercial zoning district may be used to provide ingress and egress to any other commercial zoning district and to any other zoning district having a less intense use, which would include all protected districts.

(d) *Requirements for recycling operations and containers:*

(1) *Requirements for recycling center operations.* Materials permitted for collection at neighborhood recycling collection points and recycling stations as defined in section 732-217, located within a C-3, C-3C or C-4 commercial district shall include the following:

- aluminum cans
- plastics
- paper products

- tin and metal cans
- glass containers

In addition to the materials listed above, other household scrap and minor automobile parts made of aluminum, brass, copper, or steel may also be collected at these facilities in the C-3, C-3C and C-4 commercial districts. However, all materials collected for delivery to the recycling facilities in the C-3, C-3C and C-4 commercial districts shall be in amounts that allow delivery by vehicles which do not exceed a maximum load capacity of three-quarters (  $\frac{3}{4}$  ) of a ton. All deliveries that necessitate the use of vehicles in excess of this size shall be required to deliver the recyclable materials to a more intensive recycling facility. This restriction is intended to protect the community character of the C-3, C-3C and C-4 commercial districts and minimize traffic created by larger hauling vehicles.

In the C-3, C-3C and C-4 commercial districts, those collection points and recycling stations that utilize a trailer as its primary structure shall be limited to one (1) trailer per site. The facility shall be manned during all hours of operation and located during off hours. In addition to these requirements, the requirements for recycling containers (as specified in section 732-214(d)(2)) shall also apply to trailer facilities.

In addition to those requirements outlined for recycling activities in the C-3, C-3C, and C-4 districts, recycling activities permitted within the C-5, C-6, C-7 and C-ID commercial districts shall also be within a completely enclosed structure and may include the crushing or compacting of the recyclable materials in order to facilitate their handling and transport. This processing step is considered to be an incidental aspect of a recycling operation, rather than a characteristic of the use itself.

(2) *Requirements for recycling containers.* Recycling containers as defined in section 732-217 shall be subject to the following requirements:

- a. The use or structure shall not be located within any required yard or required transitional yard or within any street right-of-way and shall meet the minimum setback requirements of the district.
- b. When the structure is an accessory use located in the parking area of the primary use, the structure shall be located completely within a striped, off-street parking space(s) on the site and shall not be within a drive or maneuvering area.
- c. A minimum of three (3) off-street parking spaces shall be provided on-site. These off-street parking spaces are in addition to the required parking provided for the primary use. A suitable maneuvering area for access and turning shall also be provided as specified in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper John Wiley and Sons, Inc., New York, New York.
- d. All recyclable materials shall be stored within a recycling container and the surrounding lot areas shall be maintained free of litter and debris on a daily basis.
- e. The recycling containers shall be clearly marked to identify the type of material which may be deposited; and the name and telephone number of the operator and the hours of operation, and shall display a notice stating that no material shall be left outside the recycling containers.
- f. The recycling container shall not reduce the amount of any required



landscaping as provided by this chapter for the primary or accessory use.

g. The recycling containers shall be emptied or exchanged with a new container at or before the time the existing container becomes completely filled.

h. The recycling container shall not be located within one hundred (100) feet, measured in any direction, of a dwelling district. The measurement shall be taken from the exterior of the container to the zoning boundary of the dwelling district except when such container is separated from such dwelling district by an intervening street (see section 732-217, Diagram J).

i. Recycling containers are prohibited as accessory structures on lots of less than ten thousand (10,000) square feet in area. Recycling containers shall be permitted as accessory uses on lots of ten thousand (10,000) square feet in area or greater provided that the combined total square footage utilized for recycling containers on the lot does not exceed one-half ( 1/2) of one (1) percent of the total gross square footage of the lot.

j. An Improvement Location Permit shall be obtained prior to the placement of the recycling container on the commercial lot.

(e) *Requirements for temporary use structures or buildings:* Temporary use structures shall be permitted in all commercial districts, under a temporary Improvement Location Permit issued by the Administrator subject to the temporary use requirements specified below:

(1) Temporary use structures or buildings shall comply with all setback requirements for a primary building on the site.

(2) Any floodlights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.

(3) A temporary Improvement Location Permit for a temporary use structure shall be valid for a maximum of eighteen (18) months. An extension of time, not to exceed one hundred eighty (180) days, may be granted by the Administrator for good cause shown. Such request for extension must be filed with the Administrator prior to the termination date of the temporary Improvement Location Permit.

(4) All structures, buildings, appurtenances, trash or debris associated with the temporary use structure shall be removed from the site immediately upon completion or cessation of the temporary use.

(f) *Requirements for temporary seasonal retail sales uses:*

(1) The use or structure must comply with all setback requirements for a primary building on the site.

(2) A minimum of three (3) off-street parking spaces shall be provided on-site for the temporary seasonal retail sales use. The location of the temporary seasonal retail sales uses and its required minimum reservation of off-street parking spaces shall not utilize any required off-street parking spaces for the primary/permanent use of the site.

(3) The location of the temporary seasonal retail sales use, and any structure associated with such use, shall be completely within a striped, off-street parking space(s) for the primary/permanent use on the site and shall not be located within a drive or maneuvering area for that primary/permanent use.

(4) Final site plans, showing the location of the temporary seasonal retail sales use within the site, shall be subject to Administrator's review and approval prior to the issuance of an Improvement Location Permit.

(5) Signs for the temporary seasonal retail sales shall comply with the regulations regarding wall signs within integrated centers contained in Chapter 734 of this Code.

(g) *Landscaping, screening, and grounds maintenance*: Subject to the allowed uses in required yards, landscaping, screening and grounds maintenance shall be provided and maintained, for all development in all commercial districts in accordance with the following regulations:

(1) *Landscaping and screening in required yards.*

a. All required yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation such as trees and shrubs as specified in section 732-214(g)(1)b. and c. and grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required yard in which it is used.

b. Landscaping and screening of the required front yard shall be provided and maintained according to the following minimum standards:

1. Landscaping in the required front yard shall consist of trees planted in accordance with one (1) of the two (2) following alternatives:

i. If deciduous shade (overstory) trees are used:

There shall be one (1) tree planted at a maximum of every forty (40) feet on center of linear distance along all required front yards.

These required trees may be grouped together in the required front yard, however, in no case shall spacing between the trees exceed eighty (80) feet (refer to section 732-217, Diagram F); or

ii. If deciduous ornamental (understory) trees are used:

There shall be one (1) tree planted at a maximum of every twenty-five (25) feet on center of linear distance along the required front yard.

These required trees may be grouped together in the required front yard, however, in no case shall spacing between the trees exceed fifty (50) feet (refer to section 732-217, Diagram F).

Deciduous shade trees and deciduous ornamental trees may be grouped together in the required yards, however, in no case shall spacing between a deciduous shade tree and a deciduous ornamental tree exceed fifty (50) feet.

2. Screening in the required front yard of the project may include:

i. Wall or fence - an ornamental, decorative fence or masonry wall, not more than forty-two (42) inches in height if solid, or six (6) feet if the sight barrier is less than fifty (50) percent, may be used in conjunction with the required landscaping; or

ii. Berm - an earthen berm may be used in conjunction with the required landscaping. It shall be a maximum height of forty-two (42) inches, have a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation (a retaining wall may be used on one (1) side of the berm in lieu of a side slope, if desired); or

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs may be used in conjunction with the required landscaping.

Provided, however, for all parking areas between the building line, as extended, and the street, there shall be provided and maintained along the front line of the parking area a screen of a minimum height of thirty-six (36) inches along a minimum of seventy-five (75) percent of the linear distance of the parking area (excluding the linear width of driveways) with a solid wall, solid fence, berm, or plant material screen. In addition, no linear open space between the above noted screening techniques shall be greater than thirty (30) feet.

The ground area between such wall, fence, berm, or plant material screen and the front proposed right-of-way line shall be planted and maintained in grass or other suitable ground cover.

A minimum of half of the required trees shall also be planted between the proposed right-of-way and the wall, fence, berm, or plant material screen.

c. Landscaping and screening in the required side and rear yards shall be provided and maintained according to the following minimum standards:

1. Landscaping in the required side and rear yards shall consist of trees planted in accordance with one (1) of the two (2) following alternatives:

i. If deciduous shade (overstory) trees are used:

There shall be one (1) tree planted at a maximum of every sixty (60) feet on center of linear distance along all required side and rear yards.

These required trees may be grouped together in the required side and rear yards, however, in no case shall spacing between the trees exceed eighty (80) feet (refer to section 732-217, Diagram F); or

ii. If deciduous ornamental (understory) trees are used:

There shall be one (1) tree planted at a maximum of every

forty (40) feet on center of linear distance along all required side and rear yards.

These required trees may be grouped together in the required side and rear yards, however, in no case shall spacing between the trees exceed fifty (50) feet (refer to section 732-217, Diagram F).

Deciduous shade trees and deciduous ornamental trees may be grouped together in the required yards, however, in no case shall spacing between a deciduous shade tree and a deciduous ornamental tree exceed fifty (50) feet.

2. Screening in the required side and rear yard of the project may include:

i. Wall or fence - an ornamental, decorative fence or masonry wall up to a maximum height of ten (10) feet may be used in conjunction with the required landscaping; or

ii. Berm - an earthen berm may be used in conjunction with the required landscaping. It shall have a maximum height of ten (10) feet, have a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation; or

iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs may be used in conjunction with the required landscaping.

d. All landscape plantings, architectural screens (fences, walls), shrubs, trees, structures or other objects shall permit completely unobstructed vision within a clear sight triangular area as noted in section 732-214(c).

e. No architectural screen fronting upon or abutting a protected district shall be electrified with the intent of providing for an electrical shock if touched.

f. Barbed wire, razor wire and similar type wires shall not be permitted within the front yard setback, or in front of any existing building in the C-1, C-2, C-3, C-3C, C-4, C-5, or C-6 commercial districts.

g. The minimum size of all required landscape plant materials, at the time of planting, including substituting or replacement trees and shrubs, shall be as follows:

1. Deciduous shade (overstory) trees - two-and-one-half-inch caliper at six (6) inches above the ground.

2. Deciduous ornamental (understory) trees - one-and-one-half-inch caliper at six (6) inches above the ground.

3. Multi-stemmed trees - eight (8) feet in height.

4. Evergreen trees - five (5) to six (6) feet in height.

5. Deciduous or evergreen shrubs - twenty-four (24) inches in height. Shrubs are to be planted at a maximum of four (4) feet on center of linear distance along the required yard.

Except, however, shrubs used to screen parking in front of the

building facade of an automotive dealership (new, used, or rental) shall be eighteen (18) inches in height.

h. All trees and shrubs shall be planted or transplanted in accordance with the standards contained in American Standards for Nursery Stock, copyrighted in 1986 by the American Association of Nurserymen and approved May 2, 1986, by the American National Standards Institute, Inc. (a copy of which is on file in the office of the division of planning and is hereby incorporated by reference and made a part hereof). All trees and shrubs shall be mulched and maintained to give a clean and weed-free appearance.

i. In computing the number of trees to be planted in a required yard or a required transitional yard, a fraction of one-half ( 1/2) or greater shall be rounded up to count as an additional tree.

j. Existing trees may fulfill the requirements for tree planting in required yards or required transitional yards as long as the standards specified for required yards (section 732-214(g)(2)b. or c.) or required transitional yards (section 732-214(g)(3)b. or c.) are met.

k. The removal from any minimum required yard or any minimum required transitional yard of any existing live deciduous tree over four-inch caliper measured at four and one-half (4 1/2) feet above ground or of any existing shrub or evergreen tree over six (6) feet in height shall be prohibited except to facilitate the placement of utilities or to provide for necessary easements or drainage improvements. Removal of such tree (s) shall require the replanting of replacement tree(s) so that the total number of trees replanted equals the total number of trees removed. Replacement trees shall be of the same species as those trees removed unless approved otherwise by the Administrator. Replanting of these replacement trees shall occur within six (6) months of removal, or the next planting season, whichever occurs first.

l. All existing trees which are to be preserved shall be maintained without injury and with sufficient area for the root system to sustain the tree. Protective care and physical restraint barriers at the dripline, such as temporary protective fencing, shall be provided to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction. Heavy equipment traffic and the storage of construction equipment or materials shall not occur within the dripline of the tree.

(2) *Landscaping and screening of required transitional yards:* Landscaping and screening of yards fronting upon or abutting a protected district shall be provided and maintained, for all development in all commercial districts in accordance with the following regulations in addition to section 732-214(g)(1)d. through k.

a. All required transitional yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation such as trees, shrubs, hedges, and grasses or ground cover as specified in section 732-214(g)(2)b. and c., planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required yard in which it is used.

b. Landscaping and screening of required front transitional yards shall be provided and maintained according to the following minimum

standards:

1. Landscaping in front transitional yards shall consist of trees planted in accordance with the standards specified for required front yards. See section 732-214(g)(1)b.1.
2. Screening in front transitional yards shall be provided in an open pattern to partially screen the commercial use.

Provided, however, for any parking areas between the building line, as extended, and the street, there shall be provided and maintained along the front line of the parking area a buffer screen of a minimum of one (1) of the following:

- i. Architectural screen - a wall or fence of ornamental block, brick, solid wood fencing or combination thereof. Such wall or fence shall be a maximum of forty-two (42) inches and a minimum of thirty-six (36) inches in height and shall be so constructed to such minimum height to restrict any view therethrough: or

- ii. Berm - an earthen berm shall be a maximum height of forty-two (42) inches and a minimum height of thirty-six (36) inches, a minimum crown width of two (2) feet, a side slope of no greater than three to one (3:1), and shall be planted and covered with live vegetation (a retaining wall may be used on one (1) side of the berm in lieu of a side slope, if desired).

*Exception:* The earthen berm may be combined with shrubs to attain the minimum height of thirty-six (36) inches.

- iii. Plant material screen - a compact hedge of evergreen or densely twigged deciduous shrubs. Such shrubs shall attain a minimum height of thirty-six (36) inches at maturity; and

The ground area between such wall, fence, berm, or hedge and the front right-of-way line shall be planted and maintained in grass or other suitable ground cover. A minimum of half of the required trees shall also be planted between the proposed right-of-way and the wall, fence, berm, or hedge.

c. Required side and rear transitional yards shall be landscaped and have an effective screening of the commercial use.

1. Landscaping and screening required side and rear transitional yards using a solid wall or fence shall be provided and maintained according to the following minimum standards:

- i. Landscaping standards for required side or rear transitional yards using a solid wall or fence.

Trees shall be planted along all side and rear transitional yards according to the standards specified for tree planting in front required yards. See section 732-214(g)(2)b.1.

- ii. Screening standards for required side and rear transitional yards using a solid wall or fence:

(a) The finished side of the fence shall face the protected district. Such fence or wall shall be constructed to a height of not less than six (6) feet and no more than ten (10) feet.

(b) A berm may be used in place of a solid fence or wall so long as the berm is a minimum of six (6) feet in height to a maximum of ten (10) feet, has a minimum crown width of two (2) feet, a side slope no greater than three to one (3:1), and shall be planted and covered in live vegetation.

Exception: The earthen berm may be combined with shrubs to attain the minimum height of six (6) feet.

2. Landscaping and screening in the required side and rear transitional yards, if a solid wall or solid fence is not used, shall be provided and maintained according to one (1) of the following minimum standards:

i. A combination of trees and shrubs:

(a) Trees - trees shall be planted in accordance with the standards specified for required front yards (see section 732-214(g)(2)b.); and

(b) Shrubs - shrubs shall be planted so that one hundred (100) percent of the linear distance of the required transitional yard is screened. Shrubs shall be planted at a maximum of four (4) feet on center of linear distance along the required transitional yard. The shrubs shall have a minimum ultimate height of six (6) feet and shall be either evergreen or densely twigged deciduous shrubs; or

ii. Low branching and densely twigged deciduous ornamental trees shall be planted to maintain a spacing of twelve and one-half (12 1/2) feet on center; or

iii. Densely branched evergreen trees shall be planted to maintain a spacing of twelve and one-half (12 1/2) feet on center; or

iv. A combination of i., ii., or iii. to be maintained so that one hundred (100) percent of the linear distance shall be screened.

*Exception:* Existing trees and shrubs may be used to screen commercial uses. However, required transitional yards must be supplemented where sparsely vegetated to maintain a dense visual barrier to a height of six (6) feet.

3. Landscaping and screening in the required side and rear transitional yards may be achieved by combining elements from 1. and 2. of this subsection, so long as the minimum standards set forth for that element utilized is satisfied.

(3) *Additional landscaping requirements - interior of parking lots:* The purpose of interior landscaping is to help reduce glare and heat buildup; to promote

interior islands for pedestrian safety and traffic separation; to visually break up large expanses of pavement; and to reduce surface runoff. The interior of any parking lot shall be landscaped based on the following minimum standards:

TABLE INSET:

Total Number of Parking Spaces	Required Interior Landscaped Area
Less than 100 spaces required	None required
100 or more spaces required	Minimum 15 square feet per parking space

a. The minimum size of a required interior landscaping area shall be one hundred eight (108) square feet. No planting area shall be less than six (6) feet in dimension, measured from the inside of the permanent barrier to inside of permanent barrier, except those portions created by turning radii or angles or parking spaces (refer to section 732-217, Diagram G).

b. Required interior landscaped areas shall be in-ground and not placed upon a pavement surface.

c. A permanent barrier, such as curbing or wheel stops, shall enclose each interior landscaped area so as to minimize damage from vehicles, pedestrians and improve parking lot maintenance.

d. For each twenty (20) parking spaces or fraction thereof, one (1) tree shall be provided. Trees located at the end of a parking bay shall be deciduous shade (overstory) or deciduous ornamental (understory). Trees located in any other portion of the interior landscaped area may be deciduous shade (overstory), deciduous ornamental (understory) or evergreen. The minimum size for trees shall be:

- Two and one-half-inch caliper at six (6) inches above the ground at time of planting (deciduous shade (overstory)).
- One and one-half-inch caliper at six (6) inches above the ground at the time of planting (deciduous ornamental (understory)).
- Five (5) to six (6) feet in height at the time of planting (evergreen trees).

e. Each tree shall be a minimum of two and one-half (2 1/2) feet away from the outside of any permanent barrier of a landscaped area or edge of the parking area.

f. Hardy ground cover or grasses shall be planted to cover each interior landscaped area completely within three (3) years. All ground cover shall have a mature height of not more than two and one-half (2 1/2) feet.

g. Space devoted to required interior landscaped areas shall be in addition to any required front, side or rear yard or required front, side or rear transitional yard.

h. Fifty (50) percent of the required interior landscaped areas shall be installed at the end of parking bays (refer to section 732-217, Diagram G). The balance of the required interior landscaped area may be installed anywhere on the lot outside of the required front, side or rear yard or required front, side or rear transitional yard.



Exceptions to interior parking lot landscaping:

- a. The requirements of this subsection shall not apply to parking garages or parking decks.
- b. The requirements of this subsection shall not apply to the parking lots of commercial developments, legally established prior to August 2, 1993 unless there is additional square footage added to the development that is equal to or in excess of fifteen (15) percent of the development, in which case the additional parking that would be required shall meet the requirements of this section for the additional square footage, but the existing parking would not be subject to these landscaping requirements.

(4) *Landscape plan requirements:* A landscape plan shall:

- a. Be drawn on a copy of the site plan (or a simplified scale drawing thereof) and show exact locations and outline of all rights-of-way (both existing and proposed by the Official Thoroughfare Plan for Marion County), structures, buildings, sidewalks and pedestrian ways, streets, trash enclosures, project access and interior access drives and driveways, individual and project storage, permanent lighting fixtures, signs, benches, screens, walls, fences, natural vegetation areas, open space, recreational areas, transitional yards, adjacent property zones, and all underground and overhead lines within areas to be landscaped (with depths or heights indicated at intervals where lines change direction or where terminals or connections are provided);
- b. Show dimensioned detailed elevation or section drawings of walls and fences;
- c. Show all existing elevations and proposed land contour lines having at least two-foot intervals;
- d. Show location and nature of existing and proposed drainage systems and their flow;
- e. Include a tree survey of required yards or required transitional yards indicating the exact location of existing trees over four-inch caliper at four and one-half (4 1/2) feet above the ground and all flowering trees, shrubs and evergreens over six (6) feet in height.
- f. Include the exact location of any existing tree two and one-half-inch caliper or greater at four and one-half (4 1/2) feet above the ground which will be counted as a required tree. Such trees, shrubs and evergreens shall be accurately labeled in the tree survey with species and caliper size indicated as either existing to remain or existing to be removed or transplanted.
- g. Show all proposed planting by labeling the species, size, and spacing (on center).

(5) *Grounds maintenance:* The project owner or management shall:

- a. Maintain the landscaping by keeping lawns mowed, all plants maintained as disease-free, and planting beds groomed, except in naturally occurring vegetation areas, such as thickets; and
- b. Replace any required planting(s), which are removed or die after the date of planting per the previously approved plans on file. Such replacement shall occur during the next planting season.

(6) *Administrator approval of alternate plans:* The Administrator, upon request by the applicant, shall have the power to modify any landscape requirements and approve alternatives for those requirements as long as the alternative plan is appropriate for the site and its surroundings and is compatible and consistent with the intent of the stated standards. Such modification shall be noted on the alternative landscape plan, stamped approved by the Administrator and become a part of the file and requirements for the Improvement Location Permit.

(h) *Appeal.* In all sections of this chapter where the Administrator is given the authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval.

(i) *Application of section 732-214.* This section shall be applicable to all commercial districts.

(G.O. 2, 2002, § 13)

### **Sec. 732-215. Special exception provisions.**

*Statement of purpose:* Because of the exceptional land use characteristics and locational impacts of certain commercial uses which, if inappropriately located within commercial zoning districts, may have a deleterious effect upon other land uses and values within the county, it is recognized that the further classification, subclassification or subdivision and regulation of such uses is essential in order to preserve property values, as well as to promote the public health, safety, comfort, morals, convenience and general welfare within Marion County.

(a) *Uses permitted by special exception.* The following uses shall be permitted in the applicable commercial zoning districts only upon the grant of a special exception by the Board of Zoning Appeals:

- (1) Amusement arcade; or similar amusement, recreation or entertainment center or facility (except any such arcade, center or facility having four (4) or less amusement machines).
- (2) Massage parlor, service, or facility (except any therapeutic, medical or surgical services or facilities or regularly licensed hospital or dispensary, or the professional services of a physician, osteopath or chiropractor duly registered with and licensed by the state).
- (3) Methadone clinic or treatment facility.
- (4) Tattoo parlor.

(b) *Special regulations for uses permitted by special exception.* In whatever commercial zoning district within Marion County the uses designated in section 732-215 (a) are included as permitted uses, such uses shall be subject to the following special regulations. These special regulations shall be in addition to the applicable district's standards and requirements and, in case of any conflict, the more stringent regulations shall control:

- (1) No use of any land, structure, or premises, as designated in section 732-215(a), shall be permitted except upon the grant of a special exception by the Board of Zoning Appeals to permit such a use.
- (2) No use of any land, structure or premises, as designated in section 732-

215(a), shall be permitted if any portion of the perimeter of the subject lot is located within five hundred (500) feet of the following zoning districts:

- a. Dwelling districts.
- b. Historic preservation districts.
- c. Market square district.
- d. Park districts.
- e. University quarter districts.
- f. SU-1 District (church).
- g. SU-2 District (school).
- h. SU-37 District (library).
- i. SU-38 District (community center).

In addition to the zoning districts noted above, this regulation shall also apply to any portion of the perimeter of a lot containing an elementary school, junior high school or high school, as defined in IC 20-10.1-1, regardless of zoning classification. If such use is a part of or included within an integrated center, the perimeter of the portion thereof or leased spaces occupied by such use shall be deemed the perimeter of the lot for purposes of the above distance computation and as required for section 732-215(c)(2).

(c) *Grant of special exception.* The Board of Zoning Appeals is hereby authorized to grant special exceptions to permit uses designated in section 732-215(a), subject to the following requirements:

(1) A petition for special exception to permit any use designated in section 732-215(a) shall be filed with the Board of Zoning Appeals in accordance with the Board's rules of procedure. In addition to the site plan and area map filing requirements of the Board's rules of procedure or special exception petition forms, the petitioner shall file with the special exception petition:

- a. An area map, drawn to scale, indicating the existing zoning classification of all land within five hundred (500) feet of the perimeter of the subject lot and any elementary school, junior high school, or high school, as defined in IC 20-10.1-1, located within such distance.
- b. Proposed detailed findings of fact in support of the four (4) determinations by the Board (hereinafter specified in section 732-215(c)(2) of this chapter), required for the grant of a special exception.

The petition, or evidence presented to the Board at the public hearing, may include any additional pertinent exhibits, such as photographs depicting the subject site or other land uses and properties in the subject area; neighborhood or community economic, social, land use or environmental impact statements; or other relevant evidence.

(2) Findings of fact: A special exception shall be granted following public hearing of the petition and upon the Board's determination that:

- a. The proposed use will not be injurious to the public health, safety, comfort, morals, convenience or general welfare;
- b. The perimeter of any portion of the subject lot is not located within five hundred (500) feet of the following districts:

1. Dwelling districts.

2. Historic preservation districts.
3. Market square district.
4. Park districts.
5. University quarter districts.
6. SU-1 District (church).
7. SU-2 District (school).
8. SU-37 District (library).
9. SU-38 District (community center).

In addition to the zoning districts noted above, this finding shall also apply to any portion of the perimeter of a lot containing an elementary school, junior high school or high school, as defined in IC 20-10.1-1, regardless of zoning classification.

c. The proposed use will not injure or adversely affect the adjacent area or property values therein; and

d. The proposed use will be consistent with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County.

(3) The grant of a special exception shall be subject to the following requirements:

a. The proposed use shall conform to all performance and development standards of the applicable zoning district.

b. The proposed use shall conform to all conditions attached to the grant of the special exception by the Board. All such conditions shall be imposed by the Board to ensure compliance with standards a., c., and d. of section 732-215(c)(2) above. Such conditions may include any reasonable site, development, operational and performance standards, requirements and restrictions. The grant of the special exception may be for a limited period of time, as specified by the Board.

### **Sec. 732-216. Special regulations, adult entertainment business.**

*Statement of purpose.* It is the purpose of this chapter to regulate adult entertainment businesses and related activities, to promote the health, safety, morals, and general welfare of the citizens of Marion County, and to establish reasonable and uniform provisions to prevent the deleterious effects of adult entertainment businesses within Marion County. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Further, it is not the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials. It is not the intent nor effect of this chapter to limit or restrict the lawful activities permitted under Indiana Code 7.1.

*Findings.* Based on evidence concerning the adverse secondary effects of adult entertainment businesses on the community presented in hearing(s) and in reports made available to the City-County Council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S.41 (1986), *Young v. American Mini Theatres*, 426 U.S.50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S.560 (1991), *Arcara v. Cloud Books, Inc.*, 478

U.S.697 (1986), *California v. LaRue*, 409 U.S.109 (1972), *Iacobucci v. City of Newport, KY*, 479 U.S.92 (1986), *United States v. O'Brien*, 391 U.S.367 (1968), *City of Erie v. Pap's A.M.*, 120 S.Ct. 1382 (2000), *City of Los Angeles v. Alameda Books, Inc.*, 122 S.Ct. 1728 (2002), *Broadway Books, Inc. v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986), *DLS, Inc. v. City of Chattanooga*, 107F.3d403 (6th Cir. 1997), *Pleasureland Museum, Inc. v. Beutter*, 2002 WL 818791 (7th Cir. 2002), *Kev, Inc. v. Kitsap County*, 793F.2d1053 (9th Cir. 1986), *Hang On, Inc. v. City of Arlington*, 65F.2d1248 (5th Cir. 1995), *South Florida Free Beaches, Inc. v. City of Miami*, 734F.2d608 (11th Cir. 1984), and *Mitchell et al v. Commission on Adult Entertainment Establishments of the State of Delaware et al*, 10F.3d123 (3rd Cir. 1993), *Ellwest Stereo Theatre, Inc. v. Boner*, 718 F. Supp. 1553 (M.D. Tenn. 1989), *City of Lincoln Nebraska v. ABC Books, Inc.*, 470 N.W. 2d 760 (Neb. 1991), *Berg v. Health & Hosp. Corp. of Marion County*, 865 F.2d 797 (7th Cir. 1989), *Shultz v. Cumberland*, 228 F.3d 831 (7th Cir. 2000), as well as studies conducted in communities including, but not limited to Indianapolis, Indiana; Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the city-county council finds:

- (1) Adult entertainment businesses lend themselves to ancillary unlawful and unhealthy activities that are presently insufficiently controlled by the operators of the establishments.
- (2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where adult entertainment businesses are located.
- (3) Sexual acts, including masturbation, oral sex and anal sex, occur at adult entertainment businesses, especially those which provide booths or cubicles for viewing films, videos, or live sex shows.
- (4) Acts of prostitution commonly occur at adult entertainment businesses.
- (5) Persons frequent certain adult theaters and other adult entertainment businesses for the purpose of engaging in sex within the premises.
- (6) At least fifty (50) communicable diseases may be spread by activities that occur in adult entertainment businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, salmonella infections and shigella infections.
- (7) Prostitution, sexual assaults and other criminal activity occur at adult entertainment businesses.
- (8) Prostitution is connected to the spread of sexually transmitted diseases.
- (9) Adult entertainment businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (10) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this chapter.
  - (a) *Prohibitions.* The establishment, enlargement, reconstruction, resumption or structural alteration of any adult entertainment business shall be prohibited if such business is within five hundred (500) feet of another such business or within five hundred (500) feet of any existing church, church zoning district, public, private or parochial school for

kindergarten through twelfth grade, school zoning district, park, park zoning district, locally designated historic preservation area established by, and under the jurisdiction of, the Indianapolis Historic Preservation Commission, day care center, day care home or any existing dwelling zoning district within Marion County, Indiana.

Provided further, that no adult entertainment business shall be established, enlarged, reconstructed, resumed or structurally altered unless the site or proposed site is located in a C-4 (Community-Regional Commercial) Zoning District, C-5 (General Commercial) Zoning District, C-6 (Thoroughfare Service) Zoning District, C-7 (High Intensity Commercial) Zoning District or C-ID (Commercial-Industrial) Zoning District.

Provided further, that no adult entertainment business shall be established, enlarged, reconstructed, resumed or structurally altered in a C-4 (Community-Regional Commercial) Zoning District unless the site or proposed site is located within an integrated center.

(b) *Measurement of distances.* The distance between one (1) adult entertainment business and another adult entertainment business shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of each such business. The distance between an adult entertainment business and any church, church zoning district, public, private or parochial school for kindergarten through twelfth grade, school zoning district, park, park zoning district, locally designated historic preservation area established by, and under the jurisdiction of, the Indianapolis Historic Preservation Commission, day care center, day care home or dwelling zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the adult entertainment business to the nearest property line of the church, church zoning district, public, private or parochial school for kindergarten through twelfth grade, school zoning district, park, park zoning district, locally designated historic preservation area established by, and under the jurisdiction of, the Indianapolis Historic Preservation Commission, day care center, day care home or dwelling zoning district. If an adult entertainment business is part of or included within an integrated center, only the portion of such center or leased space occupied by such adult entertainment business shall be included in determining the closest exterior structural wall of such establishment.

(c) *Exterior display.*

(1) No adult entertainment establishment shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window or other opening from any public view.

(2) Number of signs. Not more than one (1) business wall sign shall be permitted for an adult entertainment business and such sign shall be permitted only on the front facade. In addition to the one (1) permitted business wall sign, an adult entertainment business not located within an integrated center shall be permitted not more than one (1) pole or ground sign structure if it is an entity of commercial development held in either private ownership or long-term lease, and which meets all of the requirements of the

zoning district in which it is located. Such requirements shall include direct access to a public street from that property and a full amount of required parking on the site with the use. All other sign structures shall be prohibited.

(3) Sign surface area. The sign surface areas of a business wall sign for an adult entertainment business shall not exceed an amount equal to five (5) percent of the front building facade of the first floor elevation (first ten (10) feet) of the premises occupied by the adult entertainment business, or one hundred (100) square feet, whichever is the lesser. The maximum sign surface area of a ground or pole sign structure, where permitted, shall not exceed one (1) square foot for each lineal foot of frontage of the lot, or thirty-six (36) square feet, whichever is the lesser.

(4) Lighting. Signs and sign structures may be illuminated, provided, however, such illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or floodlights), or any flashing or animated lights (either interior to the sign, on the exterior of the sign, or as a border to the sign).

(d) *Parking.* Parking for an adult entertainment business shall be provided on the site with the use. There shall be at least one (1) parking space for each two hundred eighty-five (285) square feet of floor area or one (1) parking space for every two (2) seats of seating capacity, whichever standard results in the higher requirement.

(e) *Continuation of nonconforming use.* The lawful use of land or buildings existing at the times of the adoption of this chapter may continue although such use does not conform to the regulations specified herein, subject to the provisions set forth in subsection (a) above.

(G.O. 92, 2002, § 1)

### **Sec. 732-217. Construction of language and definitions.**

(a) *Construction of language.* The language of this article shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for," includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or" the conjunction shall be interpreted as follows:

- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- c. "Either . . . or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) *Definitions.* The words in the text or illustrations of this chapter shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

*Access.* The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

*Access drive.* That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property (see Diagram A).

*Accessory.* A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.

*Administrator.* Administrator of the division of planning of the department of metropolitan development or his/her appointed representative.

*Adult bookstore.* An establishment having at least twenty-five (25) percent of its:

- (1) Retail floor space used for the display of adult products; or
- (2) Stock in trade consisting of adult products; or
- (3) Weekly revenue derived from adult products.

For purposes of this definition, the phrase *adult products* means books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. For purposes of this definition, the phrase adult products also means a device designed or marketed as useful primarily for the stimulation of human genital organs, or for sadomasochistic use or abuse. Such devices shall include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse.

*Adult cabaret.* A nightclub, bar, theatre, restaurant or similar establishment that regularly features:

- (1) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas;
- (2) Films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical



areas for observation by patrons;

(3) Persons who appear in a state of nudity or semi-nudity as defined in Chapter 807, Article I of this Code; or

(4) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customer.

*Adult drive-in theatre.* An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

*Adult entertainment business.* An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult motion picture arcade, adult cabaret, adult drive-in theatre, adult live entertainment arcade or adult services establishment.

*Adult live entertainment arcade.* Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography, which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure to specified anatomical areas.

*Adult mini motion picture theatre.* An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult motel.* A hotel, motel or similar establishment offering public accommodations for any form of consideration that offers a sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours, and that provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

*Adult motion picture arcade.* Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theatre.* An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult service establishment.* Any building, premises, structure or other facility, or part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

*Alley.* Any public right-of-way which has been dedicated or deeded to and accepted by

the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

*Alteration.* Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

*Amusement arcade.* A type of indoor commercial amusement/recreation establishment where more than four (4) amusement machines are available to the public.

*Amusement machine.* An amusement device operated by means of the insertion of a coin, token, or similar object for the purpose of entertainment, amusement or skill and for the playing of which a fee is charged. "Amusement machine" does not include vending machines which do not incorporate gaming amusement or skill features, nor does the term include any coin-operated mechanical musical device.

*Amusement/recreational establishment, commercial.* See (indoor/outdoor) commercial amusement/ recreational establishment.

*Assisted living facility.* A residential facility that provides a combination of housing, social activity, supportive services, personalized assistance, and health care, designed to foster independent living, yet respond to the individual needs of those who need help with activities of daily living (ADL - For purposes of this definition this means such activities as walking, eating, dressing, bathing, toileting, and transfer between, or in and out of a chair or bed) and instrumental activities of daily living (IADL - For purposes of this definition this means activities such as doing laundry, cleaning of living areas, meal preparation, engaging in recreational or leisure activities, taking medications properly, managing money and conducting business affairs, using public transportation, writing letters, or using the telephone). Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs of residents. Such facilities are not licensed as a nursing home. Facilities have single- or double-occupancy living units which contain most dwelling unit features, such as lockable units, a food preparation area, and a full bathroom facility.

*Attached multifamily dwelling.* See dwelling, attached multifamily.

*Automated teller machine (ATM).* A mechanized apparatus which performs limited banking functions for customers such as deposits, withdrawals and transfers of funds upon insertion of a customer identification card, password, or similar device.

*Awning.* A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, designed and intended for protection from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or the like.

*Basement.* That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half ( 1/2) or more of its interior vertical height clearance below grade level.

*Bed and breakfast.* The commercial leasing of no more than four (4) bedrooms(s) for no more than eight (8) guest(s) within a private dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee.

*Boardinghouse.* A building, other than hotels, motels, bed and breakfasts or multifamily dwelling, containing accommodation facilities in common for up to ten (10) persons where lodging, typically with meals, reserved solely for the occupants thereof, is provided for a fee.

*Buildable area.* The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met (see Diagram B).

*Building.* Any structure designed or intended for the support, enclosure, shelter, or

protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

*Building area.* The total ground area, within the lot or project, covered by the primary structure plus garages, carports and other accessory buildings. The ground area of a structure, or portion thereof, not provided with surrounding exterior walls shall be the area immediately under the vertical projection of the roof or the floor above (see Diagram B).

*Canopy.* A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass on a support, which is supported in total or in part from the ground, providing shelter over, for example, a doorway, outside walk or parking area.

*Collector street.* See street, collector.

*Commercial garage.* See garage, commercial.

*Commission.* The Metropolitan Development Commission of Marion County, Indiana.

*Commitment.* An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

*Community center.* A building used for recreational, social, educational and cultural activities of a neighborhood or community.

*Comprehensive plan.* The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

*Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.

*Convenience market.* A retail establishment selling a limited number of food items, such as sandwiches, snacks, staple groceries, household items, lottery tickets and food items prepared on the premises, including reheating, which can be immediately consumed. Such establishments may also provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers of the establishment on a self-service basis.

*Corner lot.* See lot, corner.

*Covenant.* A legal agreement concerning the use of land.

*Crown of the street.* The highest point, most often at the centerline, of a street cross-section of the street pavement between the existing curb lines.

*Cul-de-sac.* See street, cul-de-sac.

*Curb cut.* The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street (see Diagram A).

*Curb line.* A line located on either edge of the pavement, but within the right-of-way line (see Diagram A).

*Customer service window.* Opening on the exterior of a building through which customers receive goods or services in exchange for monetary compensation.

*Dance studio.* An establishment primarily engaged in operating and providing training, instruction, and demonstrations or recitals in various forms of dance to individuals or groups.

*Day care center.* Any institution or place operated for the purpose of providing:

- (1) Care;
- (2) Maintenance; or

(3) Supervision and instruction;

to children who are less than six (6) years old and are separated from their parent(s), guardian, or custodian for more than four (4) hours but less than twenty-four (24) hours a day for ten (10) or more consecutive workdays, where tuition, fees or other forms of compensation are charged, and which is licensed by, and approved to operate as a day care center in accordance with the requirements of the State of Indiana. This definition shall not include a "day care home" of children.

*Day care home.* Defined in IC 12-3-2-3 as follows: A residential structure where an individual provides child care:

- (1) For compensation;
- (2) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding holidays; and
- (3) To more than five (5) children at a time who:
  - a. Are less than eleven (11) years of age; and
  - b. Are not attended by:
    1. A parent;
    2. A stepparent;
    3. A guardian;
    4. A custodian; or
    5. A relative who is at least eighteen (18) years of age.

*Day nursery.* Same as day care center.

*Display, outdoor.* An outdoor area where merchandise is displayed for sale, and which is freely accessible to the public except that automobile retail sales areas shall be considered outdoor display areas whether freely accessible or not. Outdoor display may be the principal use of a lot or may be accessory to a commercial use (as allowed by the zoning district) when the sales transactions occur within a structure.

*Dripline.* The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

*Drive-in.* A business establishment so developed that its retail or service character is dependant on providing a driveway approach or parking spaces for motor vehicles to service patrons while in or on the motor vehicle, rather than within a building.

*Drive-through.* A feature of an establishment which encourages or permits customers to receive services or obtain goods while remaining in or on a motor vehicle.

*Drive-through customer window.* See customer service window.

*Drive-through restaurant.* See restaurant, drive-through.

*Driveway.* Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line (see Diagram A).

*Dry cleaning plant.* A facility in which the cleaning of garments, fabrics, draperies, etc., is performed with a liquid other than water. The plant is generally not visited by individual customers, but rather by individual dry cleaning dropoff establishments.

*Dwelling, attached multifamily.* A building or buildings for residential purposes with three (3) or more dwelling units, having common or party wall or walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an

unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

*Dwelling unit.* One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

*Educational services.* An establishment providing academic or technical instruction or primarily engaged in offering educational courses and services, including libraries, student exchange programs and curriculum development.

*Enlargement (pertaining to adult entertainment only).* An increase in the size of the building, structure or premises in which the adult entertainment business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land.

*Erect.* Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

*Establishing an adult entertainment business.* Shall mean and include any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;
- (3) The relocation of any such business.

*Excavation.* The breaking of ground, except common household gardening, ground care and agricultural activity.

*Family.* One (1) or more human beings related by blood, marriage, adoption, or guardianship together with incidental domestic servants and temporary noncompensating guests; or not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

*Fast food restaurant.* See restaurant, fast food.

*Floor area, gross.* The number of the square feet of horizontal floor area of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) abutting buildings.

*Front lot line.* See lot line, front.

*Front yard.* See yard, front.

*Frontage (street frontage).* The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

*Garage, commercial.* Any building designed and intended for the storage or repair of motor vehicles for compensation.

*Gasoline service station.* Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; which may include as an accessory use minor automotive repairs; the sale and installation of lubricants, tires, batteries; car washes; and similar accessory uses. Such establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers or employees.

*Grade, established street.* The crown elevation of a street pavement level abutting a property (as fixed by the Department of Public Works).

*Grade level (adjacent ground elevation).* The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from such walls, between such walls and a line ten (10) feet away from and paralleling such walls.

*Grocery store.* A commercial establishment, commonly known as a supermarket, food or grocery store, primarily engaged in the retail sale of canned foods and dry goods, such as tea, coffee, spices, sugar, and flour; fresh fruits and vegetables; and fresh and prepared meats, fish and poultry.

*Gross floor area.* See floor area, gross.

*Gross floor area, total.* The sum of the gross horizontal areas of all floors below the roof and within the exterior faces of the exterior walls of principal and accessory buildings or the centerlines of walls separating two (2) abutting buildings.

*Gross leasable area.* The total floor area which is designed for the tenant's occupancy and exclusive use.

*Ground cover.* Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, and the like.

*Ground floor.* That story which contains finished floor area closest to, but not below, grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

*Handicap ramp.* See pedestrian ramp.

*Hardsurfaced.* Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

*Hardware store.* A commercial establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, and cutlery.

*Health care facility.* A facility or institution, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition.

*Health services.* Medical, surgical or other similar services provided to individuals, including services provided by physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care facilities or blood banks.

*Hedge.* A row or rows of closely planted shrubs, bushes, etc., creating a vegetative barrier.

*Height, building.* The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when such sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when such sidewalk or ground surface is more than ten (10) feet above the lowest grade.

*Home improvement store/center.* A facility for the sale of home, lawn, and garden materials and supplies, brick, lumber, hardware items and other similar materials.

*Hotel.* Any building or group of buildings containing five (5) or more rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the travelling public.

*Indoor commercial amusement/recreation establishment.* A facility wholly enclosed in a building that offers entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as bowling alleys, billiard parlors, or arcades.

*Inoperable vehicle.* A motor vehicle from which there has been removed the engine, transmission or differential or that is otherwise partially dismantled or mechanically inoperable, or any motor vehicle which cannot be driven on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

*Integrated center.* An area of development (commercial, industrial or any combination of commercial, industrial and residential uses) of one (1) or more lots, comprised of:

- (1) A number of individual, nonrelated and separately operated uses in one (1) building sharing common-site facilities; or
- (2) One (1) or more buildings containing nonrelated and separately operated uses occupying a common-site, which utilize one (1) or a combination of common-site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or
- (3) One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, which are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

*Interior access drive.* A minor, private street providing access within the boundaries of a project beginning at the required setback line (see Diagram A).

*Interior access driveway.* Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels (see Diagram A).

*Job printer.* A facility for the commercial reproduction, cutting, printing, or binding of written materials, drawings, or labels on a bulk basis using lithography, offset printing, blueprinting and similar methods.

*Landscaping.* Any combination of living plants, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion and drainage control and wind protection.

*Landscaping, interior.* Landscaping areas consisting of a combination of trees, shrubs and ground cover located in the interior of vehicular use areas so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define areas for pedestrians and vehicular circulation.

*Legally established nonconforming building or structure.* Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment, or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

*Legally established nonconforming use.* Any continuous, lawful land use having

commenced prior to the time of adoption, revision or amendment or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

*Liquor store, package.* A facility principally for the retail sale of alcoholic beverages for off-premises consumption.

*Loading area.* An off-street area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility.

*Loading space.* An off-street space or berth used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

*Local street.* See street, local.

*Lot.* A tract of land designated by its owner(s) to be used or developed as a unit under single ownership or control. A lot may or may not coincide with a lot of record and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record; or
- (3) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

For purposes of this definition, ownership includes:

- (1) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;
- (2) A contract vendee;
- (3) A long-term lessee (but only if the lease is recorded among the records of the county recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit) (see Diagram C).

*Lot area.* The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

*Lot, corner.* A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram C).

*Lot, through.* A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram C).

*Lot line.* The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

*Lot line, front.* The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram B).

*Lot line, rear.* A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

*Lot line, side.* Any lot line not designated as a front or rear lot line.



*Lot of record.* A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the recorder of Marion County, Indiana.

*Main floor area.* The area of a horizontal plane, fully bound by the exterior walls of the primary building or structure, of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

*Marginal access street.* See street, marginal access.

*Mini-warehouses.* A building or group of buildings containing one (1) or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds six hundred (600) square feet in area.

*Minor emergency repairs.* Those maintenance repairs necessitating an immediate solution yet not posing an immediate life-safety hazard, nor altering the existing character of the structure (see alteration).

*Motel.* Any building or group of buildings containing five (5) or more rooms with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the traveling public.

*Mulch.* A protective covering of organic substances placed around plants to control weeds and prevent evaporation of moisture or freezing. Plastic, loose gravel, stones or rocks shall not be considered as mulch.

*Neighborhood recycling collection point.* A site where individuals bring household recycling materials to either drop off without compensation, or to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the material takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses sharing the site of a larger primary use. Possible structures for this type of operation include such recycling containers as "igloos," reverse vending machines, trailers, or similar structures.

*Night club.* An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live and recorded performances. The establishment may or may not engage in the preparation and retail sale of alcoholic beverages for consumption on the premises. For the purposes of this chapter, an establishment of a similar nature which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be construed to be a night club, but rather a commercial amusement/recreation establishment.

*Nonconforming adult entertainment business.* Shall mean any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of General Ordinance 44, 1984, adopted on July 9, 1984, or amendments thereto, which does not conform after the passage of that ordinance or amendments thereto with the regulations of this chapter.

*Nursery, day.* See day care center.

*Off-street.* A location completely within the boundaries of the lot, and completely off of public or private rights-of-way or alleys or any interior surface access easement for ingress and egress.

*On-center.* Distance at grade from the center of one (1) plant to the center of the next plant.

*Outdoor commercial amusement/recreation establishment.* An open area offering entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as golf courses, swimming pools, and baseball/softball fields.

*Outdoor display.* See display, outdoor.

*Outdoor storage.* See storage, outdoor.

*Parking area.* An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space (see Diagram A).

*Parking bay.* The parking module consisting of one (1) or two (2) rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces (see Diagram A).

*Parking space.* An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle (see Diagram A).

*Pavement.* A layer of concrete, asphalt or coated macadam used on street, parking area, sidewalk, or airport surfacing.

*Pedestrian ramp.* An inclined access opening along the curb line at which point pedestrians, unassisted or assisted by a wheelchair, walker or the like, may enter or leave the street; or an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or the like, access from the ground to an elevated surface.

*Permitted use.* Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

*Personal service.* Services provided involving the care of a person or his/her apparel.

*Personal service establishment.* A commercial establishment primarily engaged in providing services generally to individuals involving the care of a person or his/her apparel, such as laundries, photographic portrait studios, barber and beauty shops, shoe repair, tailor, travel bureaus or similar facilities.

*Physically handicapped.* An individual who has a physical impairment including impaired sensory, manual or speaking abilities, which results in a functional limitation in access to and use of a building or facility.

*Plat.* An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

*Primary building.* The building in which the permitted primary use of the lot is conducted.

*Printer, job.* See job printer.

*Proposed right-of-way.* See right-of-way, proposed.

*Protected district.* Specific classes of zoning districts which, because of their low intensity or the sensitive land uses permitted by them, require additional buffering and separation when abutted by certain more intense classifications of land use. For the purposes of this article, a protected district shall include any dwelling district, hospital district, parks district, university quarter district, SU-1 (church) District or SU-2 (school) District.

*Rear yard.* See yard, rear.

*Reconstruction (pertaining to adult entertainment only).* The rebuilding or restoration of any nonconforming adult entertainment business which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion or other calamity

or act of God, if the damage or destruction exceeds two-thirds ( 2/3) of the value of the structure or the facilities affected.

*Recreation facility.* A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

*Recycling container.* Receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to, glass, plastic, metal and paper.

*Recycling station.* A recycling operation involving further processing (relative to a neighborhood recycling collection point) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out. These businesses usually occupy existing freestanding sites, such as former gasoline stations, or occupy parts of an integrated center parking lot.

*Religious use.* A land use devoted primarily to divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

*Restaurant, drive-in or drive-through.* Any restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by, patrons in or on motor vehicles parking or stopped on the premises.

*Restaurant, family.* An establishment where food and drink are prepared, served and consumed primarily within the principal building to the general public. The establishment may have a separate area, or lounge, where alcoholic beverages are served without full food service, provided the area is accessory to the primary use in: 1) square feet; or 2) sales.

*Restaurant, fast food.* An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premises or off-premises.

*Resumption (pertaining to adult entertainment only).* Shall mean the reuse or reoccupation of a nonconforming adult entertainment business which has been discontinued for a period of six (6) or more consecutive months.

*Retail trade.* Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The establishment typically buys goods for resale to the public.

*Required yard.* See yard, required.

*Right-of-way.* Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

*Right-of-way, private.* Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

*Right-of-way, proposed.* Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

*Right-of-way, public.* Specific and particularly described strip of land, property, or interest

therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

*Roof line.* The uppermost edge of the water-carrying surface of a building or structure.

*Satellite dish antenna.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone or horn. Such device shall be used to transmit or receive radio or electromagnetic waves between terrestrially or orbitally based devices.

*Screening.* A method of visually shielding or obscuring a nearby structure, building or use on an abutting or adjacent property or lot from another by fencing, walls, berms, or densely planted vegetation.

*Seasonal retail sales use, temporary.* A temporary use established for a fixed period of time, for the retail sale of seasonal products, including, but not limited to, such items as food, Christmas trees, and live plants. This use may or may not involve the construction or alteration of any permanent building or structure.

*Semi-public use.* See use, semi-public.

*Service bay.* Individual area within an automobile repair or service facility where services, including but not limited to car washes, oil changes and repairs, are performed on a motor vehicle.

*Services involving specified sexual activity or display of specified anatomical areas.* Any combination of two (2) or more of the following activities:

- (1) The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representation which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- (2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) The operation of coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;
- (4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas;
- (5) The operation of a massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio, as these terms are defined in Chapter 911 of this Code.

*Setback.* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line (see Diagram B).

*Setback line.* A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line (see Diagram B).

*Shopping center.* A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access and often with protection from the elements.

*Shrub.* A woody plant of relatively low height (not exceeding ten (10) to twelve (12) feet in height), branching from the base.

*Side yard.* See yard, side.

*Sidewalk.* A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

*Sign.* Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.

*Site plan.* The development plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by ordinance, but not limited to: Topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

*Specified anatomical areas.* Any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities.* Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as a part of or in connection with any of the activities set forth in (1) through (6) above.

*Stacking space, off-street.* An area, separate from or in addition to, the required parking area, reserved for the temporary retention of vehicles which are queuing up or utilizing the services of a drive-through service unit.

*Storage, outdoor.* An outdoor area used for the long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles or junk.

*Storage area.* An area designated, designed and intended for the purpose of reserving property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

*Storage room.* An enclosed area integrated into and sharing a common or party wall or

walls within a primary building, while designed and intended for the purpose of reserving property for a future use.

*Story.* That part of a building, with an open height of not less than seven (7) feet six (6) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

*Street, collector.* A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets and arterials while allowing direct access to abutting property(ies) (see Diagram D).

*Street, cul-de-sac.* A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram D).

*Street, expressway.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, freeway.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, local.* A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram D).

*Street, marginal access.* A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram D).

*Street, parkway.* A street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and the thoroughfare plan.

*Street, primary.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, private.* A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

*Street, public.* A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

*Street, secondary.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Structural alteration.* Shall mean any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

*Structure.* A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

*Subdivision.* The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

*Substance abuse treatment facility.* A facility, the primary function of which is to administer or dispense a schedule II controlled substance (as listed under IC 35-48-2-6(b) or (c)) to a narcotic addict for maintenance or detoxification treatment.

*Tavern.* An establishment used primarily for the serving of liquor by the drink to the general public, but where minors cannot be within the use, and where food or packaged liquors may be served or sold only as accessory to the primary use.

*Temporary seasonal retail sales use.* See seasonal use, temporary.

*Temporary use.* An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

*Theatre, drive-in.* An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in motor vehicles.

*Theatre, motion picture.* A building or part of a building which is devoted primarily to showing motion pictures to the public for a fee.

*Theatre, legitimate.* A building or structure or part thereof which is devoted primarily for the presentation of live dance, dramatic, musical or comedic performances.

*Thoroughfare.* A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

*Thoroughfare plan.* The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

*Through lot.* See lot, through.

*Total gross floor area.* See gross floor area, total.

*Transitional yard.* See yard, transitional.

*Trash container.* Receptacle intended for the disposal, collection or temporary storage of unsorted waste products or refuse.

*Trash enclosure.* An accessory structure enclosed on at least three (3) sides that is designed to screen and protect waste receptacles from view and to prevent waste debris from dispersing outside the enclosure.

*Tree survey.* An inventory of all trees on a lot or project before construction, alteration or excavation activity occurs identifying species, location, caliper, and dripline of trees. In the case of dense tree stands that exceed six hundred (600) square feet in area and seventy-five (75) percent branch coverage of the ground surface, the location of the outer boundary of the tree stands' dripline with a listing of the predominant species and caliper may be substituted for a detailed inventory.

*Use, semi-public.* A service offered by a not-for-profit organization to the general public for either no charge or a nominal fee.

*Variety store.* Commercial establishments primarily engaged in the retail sale of a variety

of merchandise in the low price range. Sales usually are made on a cash-and-carry basis, with the open-selling method of display and customer selection of merchandise. These stores generally do not carry a complete line of merchandise, are not departmentalized, do not carry their own charge service, and generally do not deliver merchandise.

*Vending machine.* An automatic device which dispenses goods or services to the customer upon receipt of monetary compensation.

*Walkway.* A hardsurfaced walk or raised path for pedestrian traffic.

*Yard, front.* An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram B).

*Yard, rear.* An open space unobstructed to the sky, extending fully across the lot situated between the rear lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram B).

*Yard, required.* That portion of any yard abutting a lot line having a minimum depth as area required by the particular zoning district in which it is located.

*Yard, side.* An open space unobstructed to the sky, extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first (see Diagram B).

*Yard, transitional required.* That portion of any yard abutting a protected district having a minimum depth as required by the particular zoning district in which it is located and acting as a buffer between two (2) or more land uses of different intensity (see Diagram B).

(G.O. 2, 2002, § 14; G.O. 92, 2002, § 1; G.O. 90, 2003, § 1)

**GRAPHIC LINK:** [Diagram A--Vehicle Areas](#)

**GRAPHIC LINK (not available):** [Diagram B](#)

**GRAPHIC LINK (not available):** [Diagram C](#)

**GRAPHIC LINK (not available):** [Diagram D](#)

**GRAPHIC LINK (not available):** [Diagram E](#)

**GRAPHIC LINK (not available):** [Diagram F](#)

**GRAPHIC LINK (not available):** [Diagram G](#)

**GRAPHIC LINK (not available):** [Diagram H](#)

**GRAPHIC LINK (not available):** [Diagram I](#)

**GRAPHIC LINK (not available):** [Diagram J](#)



**GRAPHIC LINK (not available): Diagrams K, L, M**